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AB-1938 Traffic safety: speed limits. (2021-2022)

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Assembly Bill No. 1938

CHAPTER 406

An act to amend Sections 22358.6, 22358.8, 22358.9, and 40802 of the Vehicle Code, relating to traffic safety.

[Approved by Governor September 18, 2022. Filed with Secretary of State September 18, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1938, Friedman. Traffic safety: speed limits.

Existing law establishes various default speed limits for vehicles upon highways, as specified. Existing law requires the Department of Transportation (Caltrans), by regulation, to require Caltrans or a local authority to round speed limits up or down to the nearest 5 miles per hour of the 85th percentile of free-flowing traffic.

This bill would, if the speed limit needs to be rounded down to the nearest 5 miles per hour increment of the 85th-percentile speed, authorize Caltrans or a local authority to lower the speed limit by 5 miles per hour from the nearest 5 miles per hour of the 85th percentile, as specified. The bill would prohibit the total reduction in the speed limit from exceeding 12.4 miles per hour from the 85th-percentile speed and would authorize a local authority to retain the currently adopted speed limit without further reduction or restore the immediately prior adopted speed limit without further reduction. The bill would make conforming changes.

Existing law establishes various speed limits and prohibits a person from driving with a greater speed than those limits. Existing law prohibits a peace officer or other person from using a speed trap in arresting, or participating in the arrest of, any person for any alleged violation of the Vehicle Code, and prohibits the use of a speed trap in securing evidence as to the speed of any vehicle for the purpose of an arrest or prosecution under the Vehicle Code. Existing law defines the term "speed trap," for these purposes, among other things, to include a particular section of a highway with a prima facie speed limit that is provided by the Vehicle Code or by local ordinance, if that prima facie speed limit is not justified by an engineering and traffic survey conducted within a specified number of years of the alleged violation, and enforcement of the speed limit involves the use of radar or any other electronic device. Existing law exempts a local street or road, school zone, senior zone, or business activity district, as defined, from that definition.

This bill would also exempt a speed limit adopted by a local authority, as specified, from the definition of "speed trap."

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. It is the intent of the Legislature to clarify the intent of Chapter 690 of the Statutes of 2021.

SEC. 2. Section 22358.6 of the Vehicle Code is amended to read:

22358.6. (a) The Department of Transportation shall, in the next scheduled revision, revise and thereafter maintain the California Manual on Uniform Traffic Control Devices to require the Department of Transportation or a local authority to round speed limits to the nearest five miles per hour of the 85th percentile of the free-flowing traffic.

(b) In cases in which the speed limit needs to be rounded down to the nearest five miles per hour increment of the 85th-percentile speed, the Department of Transportation or a local authority may lower the speed limit by five miles per hour from the nearest five mile per hour increment of the 85th-percentile speed, in compliance with Sections 627 and 22358.5 and the California Manual on Uniform Traffic Control Devices, as it read on March 30, 2021, if the reasons for the lower speed limit are documented in an engineering and traffic survey. The Department of Transportation or a local authority may also take into consideration Sections 22353, 22353.2, 22353.3, 22353.4, and 22353.5, if applicable.

(c) In cases in which the speed limit needs to be rounded up to the nearest five miles per hour increment of the 85th-percentile speed, the Department of Transportation or a local authority may decide to instead round down the speed limit to the lower five miles per hour increment. If the speed limit is rounded down pursuant to this subdivision, the speed limit shall not be reduced any further pursuant to subdivision (b).

(d) In addition to subdivisions (b) and (c), a local authority may additionally lower the speed limit as provided in Section 22358.7.

(e) The total reduction in the speed limit pursuant to subdivisions (a) to (d), inclusive, shall not exceed 12.4 miles per hour from the 85th percentile speed.

(f) Notwithstanding subdivisions (a) to (e), inclusive, a local authority may retain the currently adopted speed limit as provided in Section 22358.8 without further reduction, or restore the immediately prior adopted speed limit as provided in Section 22358.8 without further reduction.

SEC. 3. Section 22358.8 of the Vehicle Code is amended to read:

22358.8. (a) If a local authority, after completing an engineering and traffic survey, finds that the speed limit is still more than is reasonable or safe, the local authority may, by ordinance, retain the currently adopted speed limit or restore the immediately prior adopted speed limit if that speed limit was established with an engineering and traffic survey and if a registered engineer has evaluated the section of highway and determined that no additional general purpose lanes have been added to the roadway since completion of the traffic survey that established that speed limit.

(b) This section does not authorize a speed limit to be reduced by any more than five miles per hour from the currently adopted speed limit nor below the immediately prior speed limit.

(c) A local authority shall issue only warning citations for violations of exceeding the speed limit by 10 miles per hour or less for the first 30 days that a lower speed limit is in effect as authorized by this section.

SEC. 4. Section 22358.9 of the Vehicle Code is amended to read:

22358.9. (a) (1) Notwithstanding any other law, a local authority may, by ordinance, determine and declare a 25 or 20 miles per hour prima facie speed limit on a highway contiguous to a business activity district when posted with a sign that indicates a speed limit of 25 or 20 miles per hour.

(2) The prima facie limits established under paragraph (1) apply only to highways that meet all of the following conditions:

(A) A maximum of four traffic lanes.

(B) A maximum posted 30 miles per hour prima facie speed limit immediately prior to and after the business activity district, if establishing a 25 miles per hour speed limit.

(C) A maximum posted 25 miles per hour prima facie speed limit immediately prior to and after the business activity district, if establishing a 20 miles per hour speed limit.

(b) As used in this section, a "business activity district" is that portion of a highway and the property contiguous thereto that includes central or neighborhood downtowns, urban villages, or zoning designations that prioritize commercial land uses at the downtown or neighborhood scale and meets at least three of the following requirements in paragraphs (1) to (4), inclusive:

(1) No less than 50 percent of the contiguous property fronting the highway consists of retail or dining commercial uses, including outdoor dining, that open directly onto sidewalks adjacent to the highway.

(2) Parking, including parallel, diagonal, or perpendicular spaces located alongside the highway.

(3) Traffic control signals or stop signs regulating traffic flow on the highway, located at intervals of no more than 600 feet.

(4) Marked crosswalks not controlled by a traffic control device.

(c) A local authority shall not declare a prima facie speed limit under this section on a portion of a highway where the local authority has already lowered the speed limit as permitted under Section 22358.7, has retained the currently adopted speed limit under Section 22358.8, or has restored the immediately prior adopted speed limit under Section 22358.8.

(d) A local authority shall issue only warning citations for violations of exceeding the speed limit by 10 miles per hour or less for the first 30 days that a lower speed limit is in effect as authorized by this section.

SEC. 5. Section 40802 of the Vehicle Code is amended to read:

40802. (a) A “speed trap” is either of the following:

(1) A particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.

(2) A particular section of a highway with a prima facie speed limit that is provided by this code or by local ordinance under paragraph (1) of subdivision (b) of Section 22352, or established under Section 22354, 22357, 22358, or 22358.3, if that prima facie speed limit is not justified by an engineering and traffic survey conducted within five years prior to the date of the alleged violation, and enforcement of the speed limit involves the use of radar or any other electronic device that measures the speed of moving objects. This paragraph does not apply to a local street, road, school zone, senior zone, business activity district, or speed limit adopted under Section 22358.7 or 22358.8.

(b) (1) For purposes of this section, a local street or road is one that is functionally classified as “local” on the “California Road System Maps,” that are approved by the Federal Highway Administration and maintained by the Department of Transportation. It may also be defined as a “local street or road” if it primarily provides access to abutting residential property and meets the following three conditions:

(A) Roadway width of not more than 40 feet.

(B) Not more than one-half of a mile of uninterrupted length. Interruptions shall include official traffic control signals as defined in Section 445.

(C) Not more than one traffic lane in each direction.

(2) For purposes of this section, “school zone” means that area approaching or passing a school building or the grounds thereof that is contiguous to a highway and on which is posted a standard “SCHOOL” warning sign, while children are going to or leaving the school either during school hours or during the noon recess period. “School zone” also includes the area approaching or passing any school grounds that are not separated from the highway by a fence, gate, or other physical barrier while the grounds are in use by children if that highway is posted with a standard “SCHOOL” warning sign.

(3) For purposes of this section, “senior zone” means that area approaching or passing a senior center building or other facility primarily used by senior citizens, or the grounds thereof that is contiguous to a highway and on which is posted a standard “SENIOR” warning sign, pursuant to Section 22352.

(4) For purposes of this section, “business activity district” means a section of highway described in subdivision (b) of Section 22358.9 in which a standard 25 miles per hour or 20 miles per hour speed limit sign has been posted pursuant to paragraph (1) of subdivision (a) of that section.

(c) (1) When all of the following criteria are met, paragraph (2) of this subdivision shall be applicable and subdivision (a) shall not be applicable:

(A) When radar is used, the arresting officer has successfully completed a radar operator course of not less than 24 hours on the use of police traffic radar, and the course was approved and certified by the Commission on Peace Officer Standards and Training.

(B) When laser or any other electronic device is used to measure the speed of moving objects, the arresting officer has successfully completed the training required in subparagraph (A) and an additional training course of not less than two hours approved and certified by the Commission on Peace Officer Standards and Training.

(C) (i) The prosecution proved that the arresting officer complied with subparagraphs (A) and (B) and that an engineering and traffic survey has been conducted in accordance with subparagraph (B) of paragraph (2). The prosecution proved that, prior to the officer issuing the notice to appear, the arresting officer established that the radar, laser, or other electronic device conformed to the requirements of subparagraph (D).

(ii) The prosecution proved the speed of the accused was unsafe for the conditions present at the time of alleged violation unless the citation was for a violation of Section 22349, 22356, or 22406.

(D) The radar, laser, or other electronic device used to measure the speed of the accused meets or exceeds the minimal operational standards of the National Highway Traffic Safety Administration, and has been calibrated within the three years prior to the date of the alleged violation by an independent certified laser or radar repair and testing or calibration facility.

(2) A "speed trap" is either of the following:

(A) A particular section of a highway measured as to distance and with boundaries marked, designated, or otherwise determined in order that the speed of a vehicle may be calculated by securing the time it takes the vehicle to travel the known distance.

(B) (i) A particular section of a highway or state highway with a prima facie speed limit that is provided by this code or by local ordinance under paragraph (1) of subdivision (b) of Section 22352, or established under Section 22354, 22357, 22358, or 22358.3, if that prima facie speed limit is not justified by an engineering and traffic survey conducted within one of the following time periods, prior to the date of the alleged violation, and enforcement of the speed limit involves the use of radar or any other electronic device that measures the speed of moving objects:

(I) Except as specified in subclause (II), seven years.

(II) If an engineering and traffic survey was conducted more than seven years prior to the date of the alleged violation, and a registered engineer evaluates the section of the highway and determines that no significant changes in roadway or traffic conditions have occurred, including, but not limited to, changes in adjoining property or land use, roadway width, or traffic volume, 14 years.

(ii) This subparagraph does not apply to a local street, road, or school zone, senior zone, business activity district, or speed limit adopted under Section 22358.7 or 22358.8.