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AB-2773 Stops: notification by peace officers. (2021-2022)

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Assembly Bill No. 2773

CHAPTER 805

An act to amend, repeal, and add Section 12525.5 of the Government Code, and to amend, repeal, and add Section 1656.3 of, and to add Section 2806.5 to, the Vehicle Code, relating to law enforcement.

[Approved by Governor September 29, 2022. Filed with Secretary of State September 29, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2773, Holden. Stops: notification by peace officers.

Existing law requires each state and local agency that employs peace officers to annually report to the Attorney General data on all stops conducted by the agency's peace officers, and requires that data to include specified information, including the time, date, and location of the stop, and the reason for the stop.

This bill would, beginning on January 1, 2024, require each state and local agency to include in its annual report the reason given to the person stopped at the time of the stop. By imposing new duties on local agencies, the bill would impose a state-mandated local program.

Existing law authorizes specified peace officers, including agents of the Department of the California Highway Patrol, county sheriffs, and city police officers, to require a driver to stop and submit to an inspection in specified circumstances. Existing law requires the Department of Motor Vehicles to publish a synopsis or summary of the laws regulating the operation of vehicles and the use of the highways, known as the California Driver's Handbook, and requires the department to include specified information in the handbook, including a person's civil rights during a traffic stop.

This bill would, beginning on January 1, 2024, require a peace officer making a traffic or pedestrian stop, before engaging in questioning related to a criminal investigation or traffic violation, to state the reason for the stop, unless the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat. The bill would, beginning on January 1, 2024, require the officer to document the reason for the stop on any citation or police report resulting from the stop. By requiring a higher level of service from local law enforcement, this bill would impose a state-mandated local program.

The bill would, beginning on January 1, 2024, require the department to include information regarding the duty of a peace officer to state the reason for the stop in the handbook at the earliest opportunity when the handbook is otherwise revised or reprinted.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

SECTION 1. Section 12525.5 of the Government Code, as amended by Section 175 of Chapter 615 of the Statutes of 2021, is amended to read:

12525.5. (a) (1) Each state and local agency that employs peace officers shall annually report to the Attorney General data on all stops conducted by that agency's peace officers for the preceding calendar year.

(2) Each agency that employs 1,000 or more peace officers shall begin collecting data on or before July 1, 2018, and shall issue its first round of reports on or before April 1, 2019. Each agency that employs 667 or more but less than 1,000 peace officers shall begin collecting data on or before January 1, 2019, and shall issue its first round of reports on or before April 1, 2020. Each agency that employs 334 or more but less than 667 peace officers shall begin collecting data on or before January 1, 2021, and shall issue its first round of reports on or before April 1, 2022. Each agency that employs one or more but less than 334 peace officers shall begin collecting data on or before January 1, 2022, and shall issue its first round of reports on or before April 1, 2023.

(b) The reporting shall include, at a minimum, the following information for each stop:

(1) The time, date, and location of the stop.

(2) The reason for the stop.

(3) The result of the stop, such as, no action, warning, citation, property seizure, or arrest.

(4) If a warning or citation was issued, the warning provided or violation cited.

(5) If an arrest was made, the offense charged.

(6) The perceived race or ethnicity, gender, and approximate age of the person stopped, provided that the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop, and the information shall not be requested from the person stopped. For motor vehicle stops, this paragraph only applies to the driver, unless any actions specified under paragraph (7) apply in relation to a passenger, in which case the characteristics specified in this paragraph shall also be reported for that passenger.

(7) Actions taken by the peace officer during the stop, including, but not limited to, the following:

(A) Whether the peace officer asked for consent to search the person, and, if so, whether consent was provided.

(B) Whether the peace officer searched the person or any property, and, if so, the basis for the search and the type of contraband or evidence discovered, if any.

(C) Whether the peace officer seized any property and, if so, the type of property that was seized and the basis for seizing the property.

(c) If more than one peace officer performs a stop, only one officer is required to collect and report to the officer's agency the information specified under subdivision (b).

(d) State and local law enforcement agencies shall not report the name, address, social security number, or other unique personal identifying information of persons stopped, searched, or subjected to a property seizure, for purposes of this section. Notwithstanding any other law, the data reported shall be available to the public, except for the badge number or other unique identifying information of the peace officer involved. Law enforcement agencies are solely responsible for ensuring that personally identifiable information of the individual stopped or any other information that is exempt from disclosure pursuant to this section is not transmitted to the Attorney General in an open text field.

(e) Not later than January 1, 2018, the Attorney General, in consultation with stakeholders, including the Racial and Identity Profiling Advisory Board (RIPA) established pursuant to paragraph (1) of subdivision (j) of Section 13519.4 of the Penal Code, federal, state, and local law enforcement agencies and community, professional, academic, research, and civil and human rights organizations, shall issue regulations for the collection and reporting of data required under subdivision (b). The regulations shall specify all data to be reported, and provide standards, definitions, and technical specifications to ensure uniform reporting practices across all reporting agencies. To the best extent possible, the regulations should be compatible with any similar federal data collection or reporting program.

(f) All data and reports made pursuant to this section are public records within the meaning of Section 7920.530 and are open to public inspection pursuant to Sections 7922.500 to 7922.545, inclusive, 7923.000, and 7923.005.

(g) (1) For purposes of this section, "peace officer," as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, is limited to members of the California Highway Patrol, a city or county law enforcement agency, and California state or university educational institutions. "Peace officer," as used in this section, does not include probation officers and officers in a custodial setting.

(2) For purposes of this section, "stop" means any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control.

(h) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 2. Section 12525.5 is added to the Government Code, to read:

12525.5. (a) (1) Each state and local agency that employs peace officers shall annually report to the Attorney General data on all stops conducted by that agency's peace officers for the preceding calendar year.

(2) Each agency that employs 1,000 or more peace officers shall begin collecting data on or before July 1, 2018, and shall issue its first round of reports on or before April 1, 2019. Each agency that employs 667 or more but less than 1,000 peace officers shall begin collecting data on or before January 1, 2019, and shall issue its first round of reports on or before April 1, 2020. Each agency that employs 334 or more but less than 667 peace officers shall begin collecting data on or before January 1, 2021, and shall issue its first round of reports on or before April 1, 2022. Each agency that employs 1 or more but less than 334 peace officers shall begin collecting data on or before January 1, 2022, and shall issue its first round of reports on or before April 1, 2023.

(b) The reporting shall include, at a minimum, the following information for each pedestrian, traffic, or any other type of stop:

(1) The time, date, and location of the stop.

(2) The reason for the stop.

(3) The reason given to the person stopped at the time of the stop.

(4) The result of the stop, such as, no action, warning, citation, property seizure, or arrest.

(5) If a warning or citation was issued, the warning provided or violation cited.

(6) If an arrest was made, the offense charged.

(7) The perceived race or ethnicity, gender, and approximate age of the person stopped, provided that the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop, and the information shall not be requested from the person stopped. For motor vehicle stops, this paragraph only applies to the driver, unless any actions specified under paragraph (8) apply in relation to a passenger, in which case the characteristics specified in this paragraph shall also be reported for that passenger.

(8) Actions taken by the peace officer during the stop, including, but not limited to, the following:

(A) Whether the peace officer asked for consent to search the person, and, if so, whether consent was provided.

(B) Whether the peace officer searched the person or any property, and, if so, the basis for the search and the type of contraband or evidence discovered, if any.

(C) Whether the peace officer seized any property and, if so, the type of property that was seized and the basis for seizing the property.

(c) If more than one peace officer performs a stop, only one officer is required to collect and report to the officer's agency the information specified under subdivision (b).

(d) State and local law enforcement agencies shall not report the name, address, social security number, or other unique personal identifying information of persons stopped, searched, or subjected to a property seizure, for purposes of this section. Notwithstanding any other law, the data reported shall be available to the public, except for the badge number or other unique identifying information of the peace officer involved. Law enforcement agencies are solely responsible for ensuring that personally identifiable information of the individual stopped or any other information that is exempt from disclosure pursuant to this section is not transmitted to the Attorney General in an open text field.

(e) Not later than January 1, 2018, the Attorney General, in consultation with stakeholders, including the Racial and Identity Profiling Advisory Board (RIPA) established pursuant to paragraph (1) of subdivision (j) of Section 13519.4 of the Penal Code, federal, state, and local law enforcement agencies and community, professional, academic, research, and civil and human rights organizations, shall issue regulations for the collection and reporting of data required under subdivision (b). The regulations shall specify all data to be reported, and provide standards, definitions, and technical specifications to ensure uniform reporting practices across all reporting agencies. To the best extent possible, the regulations should be compatible with any similar federal data collection or reporting program.

(f) All data and reports made pursuant to this section are public records within the meaning of Section 7920.530 and are open to public inspection pursuant to Sections 7922.500 to 7922.545, inclusive, 7923.000, and 7923.005.

(g) (1) For purposes of this section, "peace officer," as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, is limited to members of the California Highway Patrol, a city or county law enforcement agency, and California state or university educational institutions. "Peace officer," as used in this section, does not include probation officers and officers in a custodial setting.

(2) For purposes of this section, "stop" means any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control.

(h) This section shall become operative on January 1, 2024.

SEC. 3. Section 1656.3 of the Vehicle Code is amended to read:

1656.3. (a) The department shall include within the California Driver's Handbook, as specified in subdivision (b) of Section 1656, information regarding each of the following:

(1) Rail transit safety.

(2) Abandonment or dumping of any animal on a highway.

(3) The importance of respecting the right-of-way of others, particularly pedestrians, bicycle riders, and motorcycle riders.

(4) Information regarding a person's civil rights during a traffic stop. The information shall address the extent and limitations of a peace officer's authority during a traffic stop and the legal rights of drivers and passengers, including, but not limited to, the right to file complaints against a peace officer. The information to be included in the handbook shall be developed by the civil rights section of the Department of Justice in consultation with the Department of Motor Vehicles, the Department of the California Highway Patrol, the Commission on Peace Officer Standards and Training, and civil rights organizations, including community-based organizations.

(b) In order to minimize costs, the information referred to in paragraph (4) of subdivision (a) shall be initially included at the earliest opportunity when the handbook is otherwise revised or reprinted.

(c) This section shall remain in effect until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 1656.3 is added to the Vehicle Code, to read:

1656.3. (a) The department shall include within the California Driver's Handbook, as specified in Section 1656, information regarding each of the following:

(1) Rail transit safety.

(2) Abandonment or dumping of any animal on a highway.

(3) The importance of respecting the right-of-way of others, particularly pedestrians, bicycle riders, and motorcycle riders.

(4) A person's civil rights during a traffic stop. The information shall address the extent and limitations of a peace officer's authority during a traffic stop and the legal rights of drivers and passengers, including, but not limited to, the right to file complaints against a peace officer. The information to be included in the handbook shall be developed by the civil rights section of the Department of Justice in consultation with the Department of Motor Vehicles, the Department of the California Highway Patrol, the Commission on Peace Officer Standards and Training, and civil rights organizations, including community-based organizations.

(5) The requirement that a peace officer disclose the reason for a traffic or pedestrian stop before engaging in questioning related to a criminal investigation or traffic violation, unless the officer reasonably believes that withholding the reason for the

stop is necessary to protect life or property from imminent threat, and the requirement for the officer to document the reason for the stop on any citation or police report resulting from the stop.

(b) In order to minimize costs, the information referred to in paragraphs (4) and (5) of subdivision (a) shall be initially included at the earliest opportunity when the handbook is otherwise revised or reprinted.

(c) This section shall become operative on January 1, 2024.

SEC. 5. Section 2806.5 is added to the Vehicle Code, to read:

2806.5. (a) A peace officer making a traffic or pedestrian stop, before engaging in questioning related to a criminal investigation or traffic violation, shall state the reason for the stop. The officer shall document the reason for the stop on any citation or police report resulting from the stop.

(b) Subdivision (a) does not apply when the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat, including, but not limited to, cases of terrorism or kidnapping.

(c) This section shall become operative on January 1, 2024.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.