

ASSEMBLY BILL

No. 342

Introduced by Assembly Member Chiu
(Principal coauthor: Senator Wiener)
(Coauthor: Assembly Member Chu)
(Coauthor: Senator Beall)

February 7, 2017

An act to amend, repeal, and add Section 70615 of the Government Code, to amend, repeal, and add Section 10878 of the Revenue and Taxation Code, and to amend, repeal, and add Section 9800 of, and to add and repeal Article 3 (commencing with Section 22425) of Chapter 7 of Division 11 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 342, as introduced, Chiu. Vehicles: automated speed enforcement: five-year pilot program.

Existing law establishes a basic speed law that prohibits a person from driving a vehicle upon a highway at a speed greater than is reasonable or prudent given the weather, visibility, traffic, highway conditions, and in no event at a speed that endangers the safety of persons or property. Existing law does not expressly authorize the use of automated speed enforcement in this state.

This bill would authorize, no later than January 1, 2019, the City of San Jose (San Jose) and the City and County of San Francisco (San Francisco) to implement a 5-year pilot program utilizing an automated speed enforcement system (ASE system) for speed limit enforcement on certain streets, if the system meets specified requirements, including that the presence of a fixed or mobile ASE system is clearly identified by signs, as specified, and trained peace officers or other trained

designated municipal employees are utilized to oversee the operation of the fixed and mobile ASE systems. The bill would require San Jose and San Francisco to adopt an ASE System Use Policy, as specified, and develop uniform guidelines for, among other things, the processing and storage of confidential information. The bill would provide that a speed violation that is recorded by an ASE system is subject to a civil penalty in an amount not to exceed \$100.

The bill would, among other things, provide for the issuance of a notice of violation, an initial review, an administrative hearing, and an appeals process, as specified, for a violation enforced by an ASE system. The bill would also authorize the processing agency to assess delinquent fees, as specified, if payment of the civil penalty is not received within a specified time. The bill would require the Department of Motor Vehicles to refuse to renew the registration of a vehicle if, among other things, the owner has not paid the civil penalty and delinquent fees, except as specified. The bill would require the department to remit all penalties and delinquent fees collected, after deducting its own administrative fees, to the processing agency.

Existing law provides that payments for specified penalties, including penalties for offenses relating to the parking of a vehicle, required to register or transfer the registration of a vehicle, constitute a lien on the vehicle on which the payments are due or that was involved in the offenses, and on any other vehicle owned by the owner of that vehicle.

This bill would, until January 1, 2024, also include payments for penalties for offenses related to the ASE system operated by San Jose or San Francisco for which a notice of violation has been served on the owner or recipient of a reissued citation and any delinquent fees added to the penalty as constituting a lien on the specified vehicles.

Existing law transfers the responsibility and authority for the collection of specified delinquent amounts, including penalties for offenses relating to the standing or parking of a vehicle, from the department to the Franchise Tax Board.

This bill would, until January 1, 2024, also transfer to the board the responsibility and authority to collect penalties for offenses related to the ASE system operated by San Jose or San Francisco for which a notice of violation has been served on the owner or recipient of a reissued notice of violation and any delinquent fees added to the penalty.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City of San Jose and the City and County of San Francisco.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
2 following:
- 3 (a) Speed is a major factor in traffic collisions that result in
4 fatalities or injuries.
- 5 (b) Law enforcement and other local agencies employ a variety
6 of methods to reduce speeding, including traffic engineering,
7 education, and enforcement.
- 8 (c) Traffic speed enforcement is critical to the efforts of
9 municipalities in California to reduce factors that contribute to
10 traffic collisions that result in fatalities or injuries.
- 11 (d) Additional tools, including automated speed enforcement,
12 are available to assist cities in addressing excessive speeding and
13 speed-related crashes.
- 14 (e) Automated speed enforcement (ASE) offers a high rate of
15 detection, and in conjunction with education, traffic engineering,
16 and law enforcement measures, it can significantly improve traffic
17 safety and prevent traffic related fatalities and injuries.
- 18 (f) Multiple ASE programs implemented in other states and
19 cities outside of California have proven successful in reducing
20 speeding and addressing traffic safety concerns.
- 21 (g) In the City of San Jose and the City and County of San
22 Francisco, fatal and injury collisions are often concentrated on
23 specific corridors of the street network where drivers travel at
24 excessive speeds. ASE can be deployed to detect and deter
25 excessive speeding on streets that have a documented speeding
26 problem as demonstrated by an aggregation of traffic collisions
27 caused by excessive speed.
- 28 (h) Enforcing speed limits using ASE systems on streets where
29 speeding drivers negatively impact traffic safety is a reliable and

1 cost-effective means to prevent further fatalities and injuries and
 2 would be in the public interest. On a pilot basis, this act authorizes
 3 the City of San Jose and the City and County of San Francisco to
 4 implement ASE programs for a five-year period, which will
 5 commence the day that the ASE system has been activated but not
 6 later than January 1, 2019. The City of San Jose and the City and
 7 County of San Francisco would have the authority to use ASE on
 8 a street or portions of a street that have a documented speeding
 9 problem as demonstrated through a high incidence of speed-related
 10 traffic collisions pursuant to the methodology described in this
 11 act.

12 (i) The City of San Jose and the City and County of San
 13 Francisco would be required to submit to the transportation
 14 committees of the Legislature an evaluation on the effectiveness
 15 of the ASE pilot program implemented in their respective
 16 jurisdictions on traffic safety pursuant to requirements described
 17 in this act. The City of San Jose and the City and County of San
 18 Francisco would also be required to submit an ASE System Report
 19 to their respective governing body pursuant to the requirements
 20 described in this act.

21 (j) To protect the privacy interests of persons who are issued
 22 notices of violation under an ASE program, the Legislature finds
 23 and declares that the photographic, video, or other visual or
 24 administrative records generated by the program shall be
 25 confidential, and shall be made available only to alleged violators
 26 and to governmental and law enforcement agencies solely for the
 27 purpose of enforcing these violations and assessing the impacts of
 28 the ASE system as required by this act.

29 (k) Prior to implementing ASE enforcement, the governing body
 30 of the City of San Jose and the City and County of San Francisco
 31 that oversees the ASE program in their respective jurisdictions
 32 shall adopt an ASE System Use Policy and approve an ASE System
 33 Impact Report pursuant to the requirements described in this act.

34 SEC. 2. Section 70615 of the Government Code is amended
 35 to read:

36 70615. (a) The fee for filing any of the following appeals to
 37 the superior court is twenty-five dollars (\$25):

38 ~~(a)~~

39 (1) An appeal of a local agency’s decision regarding an
 40 administrative fine or penalty under Section 53069.4.

1 ~~(b)~~

2 (2) An appeal under Section 40230 of the Vehicle Code of an
3 administrative agency’s decision regarding a parking violation.

4 ~~(e)~~

5 (3) An appeal under Section 99582 of the Public Utilities Code
6 of a hearing officer’s determination regarding an administrative
7 penalty for fare evasion or a passenger conduct violation.

8 ~~(d)~~

9 (4) An appeal under Section 186.35 of the Penal Code of a law
10 enforcement agency’s determination regarding the placement of
11 an individual’s information in a shared gang database.

12 (5) *An appeal under Section 22428 of the Vehicle Code of a*
13 *hearing officer’s determination regarding a civil penalty for an*
14 *automated speed violation, as defined in Section 22425 of the*
15 *Vehicle Code.*

16 (b) *This section shall remain in effect only until January 1, 2024,*
17 *and as of that date is repealed, unless a later enacted statute that*
18 *is enacted before January 1, 2024, deletes or extends that date.*

19 SEC. 3. Section 70615 is added to the Government Code, to
20 read:

21 70615. (a) The fee for filing any of the following appeals to
22 the superior court is twenty-five dollars (\$25):

23 (1) An appeal of a local agency’s decision regarding an
24 administrative fine or penalty under Section 53069.4.

25 (2) An appeal under Section 40230 of the Vehicle Code of an
26 administrative agency’s decision regarding a parking violation.

27 (3) An appeal under Section 99582 of the Public Utilities Code
28 of a hearing officer’s determination regarding an administrative
29 penalty for fare evasion or a passenger conduct violation.

30 (4) An appeal under Section 186.35 of the Penal Code of a law
31 enforcement agency’s determination regarding the placement of
32 an individual’s information in a shared gang database.

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

34 SEC. 4. Section 10878 of the Revenue and Taxation Code is
35 amended to read:

36 10878. (a) Notwithstanding Sections 10877 and 10951, the
37 responsibility and authority for the collection of the following
38 delinquent amounts, and any interest, penalties, or service fees
39 added thereto, shall be transferred from the department to the
40 Franchise Tax Board:

1 (1) Registration fees.

2 (2) Transfer fees.

3 (3) License fees.

4 (4) Use taxes.

5 (5) Penalties for offenses relating to the standing or parking of
6 a vehicle for which a notice of parking violation has been served
7 on the owner, and any administrative service fee added to the
8 penalty.

9 (6) Unpaid tolls, toll evasion penalties as described in Section
10 40252 of the Vehicle Code, and any related administrative or
11 service fees.

12 (7) Any court-imposed fine or penalty assessment, and any
13 administrative service fee added thereto, that is subject to collection
14 by the department.

15 (8) *Penalties for offenses detected by an automated speed*
16 *enforcement system operated by the City of San Jose or the City*
17 *and County of San Francisco for which a notice of violation has*
18 *been served on the registered owner or recipient of a reissued*
19 *notice of violation and any delinquent fees added to the penalty.*

20 (b) Any reference in this part to the department in connection
21 with the duty to collect these amounts shall be deemed a reference
22 to the Franchise Tax Board.

23 (c) The amounts collected under subdivision (a) may be
24 collected in any manner authorized under the law as though they
25 were a tax imposed under Part 10 (commencing with Section
26 17001) that is final, including, but not limited to, issuance of an
27 order and levy under Article 4 (commencing with Section 706.070)
28 of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil
29 Procedure in the manner provided for earnings withholding order
30 for taxes. Part 10 (commencing with Section 17001), 10.2
31 (commencing with Section 18401), or 10.7 (commencing with
32 Section 21001), or any other applicable law shall apply for this
33 purpose in the same manner and with the same force and effect as
34 if the language of Part 10, 10.2, or 10.7, or the other applicable
35 law is incorporated in full into this authority to collect these
36 amounts, except to the extent that the provision is either
37 inconsistent with the collection of these amounts or is not relevant
38 to the collection of these amounts.

39 (d) Even though the amounts authorized by this section are
40 collected as though they are taxes, amounts so received by the

1 Franchise Tax Board shall be deposited into an appropriate fund
2 or account upon agreement between the Franchise Tax Board and
3 the department. The amounts shall be distributed by the department
4 from the appropriate fund or account in accordance with the laws
5 providing for the deposits and distributions as though the moneys
6 were received by the department.

7 (e) For any collection action under this section, the Franchise
8 Tax Board may utilize the contract authorization, procedures, and
9 mechanisms available either with respect to the collection of taxes,
10 interest, additions to tax, and penalties pursuant to Section 19376,
11 or with respect to the collection of the delinquencies by the
12 department immediately prior to the time this section takes effect.

13 (f) The Legislature finds that it is essential for fiscal purposes
14 that the program authorized by this section be expeditiously
15 implemented. Accordingly, Chapter 3.5 (commencing with Section
16 11340) of Part 1 of Division 3 of Title 2 of the Government Code
17 shall not apply to any standard, criteria, procedure, determination,
18 rule, notice, or guideline established or issued by the Franchise
19 Tax Board in implementing and administering the program required
20 by this section.

21 (g) Any standard, criteria, procedure, determination, rule, notice,
22 or guideline, that is not subject to the provisions of Chapter 3.5
23 (commencing with Section 11340) of Part 1 of Division 3 of Title
24 2 of the Government Code pursuant to subdivision (f), shall be
25 approved by the Franchise Tax Board, itself.

26 (h) The Franchise Tax Board may enter into any agreements or
27 contracts necessary to implement and administer the provisions
28 of this section. The Franchise Tax Board in administering this
29 section may delegate collection activities to the department. Any
30 contracts may provide for payment of the contract on the basis of
31 a percentage of the amount of revenue realized as a result of the
32 contractor's services under that contract. However, the Franchise
33 Tax Board, in administering this part, may not enter into contracts
34 with private collection agencies as authorized under Section 19377.

35 (i) The amendments made to this section by the act adding this
36 subdivision shall apply commencing with the effective date of the
37 act adding this subdivision.

38 (j) *This section shall remain in effect only until January 1, 2024,*
39 *and as of that date is repealed, unless a later enacted statute that*
40 *is enacted before January 1, 2024, deletes or extends that date.*

1 SEC. 5. Section 10878 is added to the Revenue and Taxation
2 Code, to read:
3 10878. (a) Notwithstanding Sections 10877 and 10951, the
4 responsibility and authority for the collection of the following
5 delinquent amounts, and any interest, penalties, or service fees
6 added thereto, shall be transferred from the department to the
7 Franchise Tax Board:
8 (1) Registration fees.
9 (2) Transfer fees.
10 (3) License fees.
11 (4) Use taxes.
12 (5) Penalties for offenses relating to the standing or parking of
13 a vehicle for which a notice of parking violation has been served
14 on the owner, and any administrative service fee added to the
15 penalty.
16 (6) Unpaid tolls, toll evasion penalties as described in Section
17 40252 of the Vehicle Code, and any related administrative or
18 service fees.
19 (7) Any court-imposed fine or penalty assessment, and any
20 administrative service fee added thereto, that is subject to collection
21 by the department.
22 (b) Any reference in this part to the department in connection
23 with the duty to collect these amounts shall be deemed a reference
24 to the Franchise Tax Board.
25 (c) The amounts collected under subdivision (a) may be
26 collected in any manner authorized under the law as though they
27 were a tax imposed under Part 10 (commencing with Section
28 17001) that is final, including, but not limited to, issuance of an
29 order and levy under Article 4 (commencing with Section 706.070)
30 of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil
31 Procedure in the manner provided for earnings withholding order
32 for taxes. Part 10 (commencing with Section 17001), 10.2
33 (commencing with Section 18401), or 10.7 (commencing with
34 Section 21001), or any other applicable law shall apply for this
35 purpose in the same manner and with the same force and effect as
36 if the language of Part 10, 10.2, or 10.7, or the other applicable
37 law is incorporated in full into this authority to collect these
38 amounts, except to the extent that the provision is either
39 inconsistent with the collection of these amounts or is not relevant
40 to the collection of these amounts.

1 (d) Even though the amounts authorized by this section are
2 collected as though they are taxes, amounts so received by the
3 Franchise Tax Board shall be deposited into an appropriate fund
4 or account upon agreement between the Franchise Tax Board and
5 the department. The amounts shall be distributed by the department
6 from the appropriate fund or account in accordance with the laws
7 providing for the deposits and distributions as though the moneys
8 were received by the department.

9 (e) For any collection action under this section, the Franchise
10 Tax Board may utilize the contract authorization, procedures, and
11 mechanisms available either with respect to the collection of taxes,
12 interest, additions to tax, and penalties pursuant to Section 19376,
13 or with respect to the collection of the delinquencies by the
14 department immediately prior to the time this section takes effect.

15 (f) The Legislature finds that it is essential for fiscal purposes
16 that the program authorized by this section be expeditiously
17 implemented. Accordingly, Chapter 3.5 (commencing with Section
18 11340) of Part 1 of Division 3 of Title 2 of the Government Code
19 shall not apply to any standard, criteria, procedure, determination,
20 rule, notice, or guideline established or issued by the Franchise
21 Tax Board in implementing and administering the program required
22 by this section.

23 (g) Any standard, criteria, procedure, determination, rule, notice,
24 or guideline, that is not subject to the provisions of Chapter 3.5
25 (commencing with Section 11340) of Part 1 of Division 3 of Title
26 2 of the Government Code pursuant to subdivision (f), shall be
27 approved by the Franchise Tax Board, itself.

28 (h) The Franchise Tax Board may enter into any agreements or
29 contracts necessary to implement and administer the provisions
30 of this section. The Franchise Tax Board in administering this
31 section may delegate collection activities to the department. Any
32 contracts may provide for payment of the contract on the basis of
33 a percentage of the amount of revenue realized as a result of the
34 contractor's services under that contract. However, the Franchise
35 Tax Board, in administering this part, may not enter into contracts
36 with private collection agencies as authorized under Section 19377.

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

38 SEC. 6. Section 9800 of the Vehicle Code is amended to read:

39 9800. (a) Payments for any of the following, and any interest,
40 penalties, or service fees added thereto, required to register or

1 transfer the registration of a vehicle, constitute a lien on the vehicle
2 on which they are due or ~~which~~ *that* was involved in the offense,
3 and on any other vehicle owned by the owner of that vehicle:

4 (1) Registration fees.

5 (2) Transfer fees.

6 (3) License fees.

7 (4) Use taxes.

8 (5) Penalties for offenses relating to the standing or parking of
9 a vehicle for which a notice of parking violation has been served
10 on the owner, and any administrative service fee added to the
11 penalty.

12 (6) Any court-imposed fine or penalty assessment, and any
13 administrative service fee added thereto, which is subject to
14 collection by the department.

15 (7) *Penalties for offenses detected by an automated speed*
16 *enforcement system operated by the City of San Jose or the City*
17 *and County of San Francisco for which a notice of violation has*
18 *been served on the owner or recipient of a reissued citation and*
19 *any delinquent fees added to the penalty.*

20 (b) Notwithstanding subdivision (a), if a person is cited for a
21 foreign registered auxiliary dolly, semitrailer, or trailer having
22 been operated without current year registration or valid California
23 permits or registration, an amount equal to the minimum
24 registration fees or transfer fees, and any penalty added thereto,
25 from the date they became due, shall, by election of the power unit
26 operator, constitute a lien upon the California registered power
27 unit ~~which~~ *that* was pulling the dolly, semitrailer, or trailer.
28 However, this subdivision is not applicable if the citation is issued
29 at a scale operated by the Department of the California Highway
30 Patrol and registration for the vehicle can be issued there
31 immediately upon payment of the fees due.

32 (c) Every lien arising under this section expires three years from
33 the date the fee, tax, or ~~parking~~ penalty first became due unless
34 the lien is perfected pursuant to subdivision (d).

35 (d) A lien is perfected when a notice is mailed to the registered
36 and legal owners at the addresses shown in the department's
37 records and the lien is recorded on the electronic vehicle
38 registration records of the department. A perfected lien shall expire
39 five years from the date of perfection.

1 (e) Employees and members of the Department of the California
2 Highway Patrol assigned to commercial vehicle scale facilities
3 may possess and sell trip permits approved by the Department of
4 Motor Vehicles.

5 (f) *This section shall remain in effect only until January 1, 2024,*
6 *and as of that date is repealed, unless a later enacted statute that*
7 *is enacted before January 1, 2024, deletes or extends that date.*

8 SEC. 7. Section 9800 is added to the Vehicle Code, to read:

9 9800. (a) Payments for any of the following, and any interest,
10 penalties, or service fees added thereto, required to register or
11 transfer the registration of a vehicle, constitute a lien on the vehicle
12 on which they are due or that was involved in the offense, and on
13 any other vehicle owned by the owner of that vehicle:

14 (1) Registration fees.

15 (2) Transfer fees.

16 (3) License fees.

17 (4) Use taxes.

18 (5) Penalties for offenses relating to the standing or parking of
19 a vehicle for which a notice of parking violation has been served
20 on the owner, and any administrative service fee added to the
21 penalty.

22 (6) Any court-imposed fine or penalty assessment, and any
23 administrative service fee added thereto, which is subject to
24 collection by the department.

25 (b) Notwithstanding subdivision (a), if a person is cited for a
26 foreign registered auxiliary dolly, semitrailer, or trailer having
27 been operated without current year registration or valid California
28 permits or registration, an amount equal to the minimum
29 registration fees or transfer fees, and any penalty added thereto,
30 from the date they became due, shall, by election of the power unit
31 operator, constitute a lien upon the California registered power
32 unit that was pulling the dolly, semitrailer, or trailer. However,
33 this subdivision is not applicable if the citation is issued at a scale
34 operated by the Department of the California Highway Patrol and
35 registration for the vehicle can be issued there immediately upon
36 payment of the fees due.

37 (c) Every lien arising under this section expires three years from
38 the date the fee, tax, or penalty first became due unless the lien is
39 perfected pursuant to subdivision (d).

1 (d) A lien is perfected when a notice is mailed to the registered
2 and legal owners at the addresses shown in the department’s
3 records and the lien is recorded on the electronic vehicle
4 registration records of the department. A perfected lien shall expire
5 five years from the date of perfection.

6 (e) Employees and members of the Department of the California
7 Highway Patrol assigned to commercial vehicle scale facilities
8 may possess and sell trip permits approved by the Department of
9 Motor Vehicles.

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

11 SEC. 8. Article 3 (commencing with Section 22425) is added
12 to Chapter 7 of Division 11 of the Vehicle Code, to read:

13

14 Article 3. Automated Speed Enforcement System

15

16 22425. (a) As used in this article, the following definitions
17 shall apply:

18 (1) “Automated speed enforcement system” or “ASE system”
19 means a fixed or mobile radar or laser system or any other
20 electronic device that utilizes automated equipment to detect a
21 violation of speeding laws and is designed to obtain a clear
22 photograph, video recording, or other visual image of a vehicle
23 license plate.

24 (2) “Automated speed violation” means a violation of a speed
25 law detected by an ASE system operated pursuant to this article.

26 (3) “City of San Jose,” “City and County of San Francisco,” or
27 “municipality” means any department, bureau, division, or unit of
28 the City of San Jose or the City and County of San Francisco,
29 respectively.

30 (b) The City of San Jose and the City and County of San
31 Francisco may establish a program utilizing an ASE system for
32 speed limit enforcement on streets or portions of streets with speed
33 limits that are 50 miles per hour or less and that have had three or
34 more speed-related fatal, severe, or other visible injury collisions
35 occur within a one-half mile distance of each other, over a five-year
36 period based on the most recent available local or state collision
37 data, and the primary or secondary collision factor identified on
38 the California Highway Patrol form 555 is an unsafe speed
39 violation.

40 (c) ASE is not authorized on freeways.

1 (d) If a school zone is located on a street or portion of a street
2 and the posted speed limit is 30 miles per hour or higher when
3 children are not present, the City of San Jose and the City and
4 County of San Francisco may use automated speed enforcement
5 two hours before the regular school session begins and two hours
6 after regular school session concludes.

7 (e) An ASE system for speed limit enforcement may be utilized
8 pursuant to subdivision (b) if the program meets all of the following
9 requirements:

10 (1) Is operated in cooperation with a law enforcement agency.

11 (2) Clearly identifies the presence of the fixed or mobile ASE
12 system by signs stating “Photo Enforced,” along with the posted
13 speed limit. The signs shall be visible to traffic traveling on the
14 street from the direction of travel for which the ASE system is
15 utilized, and shall be posted at all locations in the corridors or
16 zones enforced by an ASE system where there is a posted speed
17 limit sign. Signs shall also be placed at additional locations as may
18 be determined necessary by the Department of Transportation
19 through discussions with the California Traffic Control Devices
20 Committee.

21 (3) Identifies vehicles containing a mobile ASE system with
22 distinctive markings, including information that the system is being
23 operated for “Photo Enforcement” purposes.

24 (4) Identifies the streets or portions of streets that have been
25 approved for enforcement using an ASE system and the hours of
26 enforcement on the municipality’s Internet Web site, which shall
27 be updated whenever the municipality changes locations that are
28 enforced with the mobile ASE system or hours of enforcement.

29 (5) (A) Utilizes trained peace officers or other trained
30 designated municipal employees who oversee the operation of
31 mobile and fixed ASE systems and maintain control over all
32 enforcement activities, including the determination of when a
33 notice of violation should be issued.

34 (B) Peace officers or other designated municipal employees
35 shall be properly trained in both of the following:

36 (i) The use of an ASE system, including, but not limited to, the
37 operation, set-up, and testing of the system deployed by the
38 municipality.

39 (ii) The enforcement of traffic and speeding laws in a course
40 approved and certified by the Commission on Peace Officer

1 Standards and Training or an operator course meeting equivalent
2 standards.

3 (C) The municipality shall retain documentation of the
4 successful completion of any required training by any peace officer
5 or designated municipal employee that oversees the operation of
6 an ASE system and the enforcement activities.

7 (6) Ensures that the ASE system is regularly inspected and
8 certifies that the system is installed and operating properly. Each
9 camera unit shall be calibrated in accordance with the
10 manufacturer’s instructions, and at least once a year by an
11 independent calibration laboratory. Documentation of the regular
12 inspection, operation, and calibration of the ASE system shall be
13 retained until the date on which the ASE system has been
14 permanently removed from use.

15 (7) Conducts an engineering and traffic survey as set forth in
16 Section 40802.

17 (f) Prior to enforcing speed laws utilizing ASE systems, the
18 municipality shall do both of the following:

19 (1) Administer a public information campaign for at least 30
20 calendar days prior to the initial commencement of the program,
21 which shall include public announcements in major media outlets
22 and press releases. Notwithstanding that additional fixed or mobile
23 ASE systems may be added to the program, no further public
24 announcement by the municipality shall be required.

25 (2) Issue warning notices rather than notices of violation for
26 violations detected by the ASE systems during the first 90 calendar
27 days of enforcement under the program. Notwithstanding that
28 additional fixed or mobile ASE systems may be added to the
29 program, the municipality shall not be required to issue further
30 warning notices.

31 (g) The local governing body shall adopt an ASE System Use
32 Policy prior to implementing an ASE program. The ASE System
33 Use Policy shall include the specific purpose for the ASE system,
34 the uses that are authorized, the rules and processes required prior
35 to that use, and the uses that are prohibited. The policy shall include
36 the data or information that can be collected by the ASE system
37 and the individuals who can access or use the collected information,
38 and the rules and processes related to the access or use of the
39 information. The policy shall also include provisions for protecting
40 data from unauthorized access, data retention, public access,

1 third-party data sharing, training, auditing, and oversight to ensure
2 compliance with the ASE System Use Policy.

3 (h) The local governing body also shall approve an ASE System
4 Impact Report prior to implementing an ASE program. The ASE
5 System Impact Report shall include all of the following
6 information:

7 (1) Description of the ASE system and how it works.

8 (2) Proposed purpose of the ASE system.

9 (3) Locations that the ASE system may be deployed and traffic
10 data for these locations.

11 (4) Assessment of potential impact of the ASE system on civil
12 liberties and civil rights and any plans to safeguard those public
13 rights.

14 (5) Fiscal costs for the ASE system, including program
15 establishment costs, ongoing costs, and program funding.

16 (i) The municipality shall develop uniform guidelines that shall
17 be approved by the local law enforcement agency for both of the
18 following:

19 (1) The screening and issuing of notices of violation.

20 (2) The processing and storage of confidential information and
21 procedures to ensure compliance with confidentiality requirements.

22 (j) Notices of violation issued pursuant to this section shall
23 include a clear photograph, video recording, or other visual image
24 of the license plate of the vehicle only, the Vehicle Code violation,
25 the camera location, and the date and time when the violation
26 occurred.

27 (k) The photographic, video, or other visual evidence stored by
28 an ASE system does not constitute an out-of-court hearsay
29 statement by a declarant under Division 10 (commencing with
30 Section 1200) of the Evidence Code.

31 (l) (1) Notwithstanding Sections 6253 and 6262 of the
32 Government Code, or any other law, photographic, video, or other
33 visual or administrative records made by an ASE system shall be
34 confidential. Public agencies shall use and allow access to these
35 records only for the purposes authorized by this article or to assess
36 the impacts of the ASE system.

37 (2) Confidential information obtained from the Department of
38 Motor Vehicles for the administration of ASE systems and
39 enforcement of this article shall be held confidential, and shall not
40 be used for any other purpose.

1 (3) Except for court records described in Section 68152 of the
2 Government Code, or as provided in paragraph (4), the confidential
3 records and evidence described in paragraphs (1) and (2) may be
4 retained for up to 60 days after final disposition of the notice of
5 violation. Administrative records described in paragraph (1) may
6 be retained for up to 120 days after final disposition of the notice
7 of violation. Notwithstanding any other law, the confidential
8 records and evidence shall be destroyed in a manner that maintains
9 the confidentiality of any person included in the record or evidence.

10 (4) Notwithstanding Section 26202.6 of the Government Code,
11 photographic, video, or other visual evidence that is obtained from
12 an ASE system that does not contain evidence of a speeding
13 violation shall be destroyed within five business days after the
14 evidence was first obtained.

15 (m) Notwithstanding subdivision (l), the registered owner or an
16 individual identified by the registered owner as the driver of the
17 vehicle at the time of the alleged violation shall be permitted to
18 review the photographic, video, or visual evidence of the alleged
19 violation.

20 (n) A contract between the municipality and a manufacturer or
21 supplier of ASE systems shall allow the local authority to purchase
22 materials, lease equipment, and contract for processing services
23 from the manufacturer or supplier based on the services rendered
24 on a monthly schedule or another schedule agreed upon by the
25 municipality and contractor. The contract shall not include
26 provisions for payment or compensation based on the number of
27 notices of violation issued by a trained peace officer or other
28 designated municipal employee, or as a percentage of revenue
29 generated, from the use of the ASE system. The municipality shall
30 oversee and maintain control over all enforcement activities,
31 including the determination of when a notice of violation should
32 be issued.

33 (o) Notwithstanding subdivision (n), a municipality may contract
34 with a vendor for the processing of notices of violation after a
35 trained peace officer or other designated municipal employee has
36 issued a notice of violation. The vendor shall be a separate legal
37 and corporate entity from, and unrelated or affiliated in any manner
38 with, the manufacturer or supplier of ASE systems used by the
39 municipality. Any contract between the municipality and a vendor
40 to provide processing services may include a provision for the

1 payment of compensation based on the number of notices of
2 violation processed by the vendor.

3 (p) An ASE system adopted pursuant to this article shall be
4 activated no later than January 1, 2019, and may operate for no
5 longer than five years.

6 22426. (a) Notwithstanding any other law, a violation of
7 Section 22350, or any other speed law, that is recorded by an ASE
8 system authorized pursuant to Section 22425 shall be subject only
9 to a civil penalty, as provided in subdivision (d), and shall not
10 result in the department suspending or revoking the privilege of a
11 violator to drive a motor vehicle or in a violation point being
12 assessed against the violator.

13 (b) The ASE system shall capture images of the license plate
14 of vehicles that are traveling 10 miles per hour or more over the
15 posted speed limit and notices of violation shall only be issued to
16 vehicles based on that evidence.

17 (c) No more than one notice of violation shall be issued for a
18 violation recorded from a specific license plate within a 24-hour
19 period.

20 (d) The total amount of the civil penalty, including any
21 additional local fees by the municipality, for a speed violation that
22 is recorded and cited under this section shall not exceed one
23 hundred dollars (\$100).

24 (e) The written notice of violation shall be issued to the
25 registered owner of the vehicle within 15 calendar days of the date
26 of the violation. The notice of violation shall include all of the
27 following information:

28 (1) The violation, including reference to the local ordinance,
29 state law, or federal statute or regulation that was violated.

30 (2) The date, approximate time, and location where the violation
31 occurred.

32 (3) The vehicle license number and the name and address of the
33 registered owner of the vehicle.

34 (4) A statement that payment is required to be made no later
35 than 30 calendar days from the date of mailing of the notice of
36 violation, or that the violation may be contested pursuant to Section
37 22427.

38 (5) The amount of the civil penalty due for that violation and
39 the procedures for the registered owner, lessee, or rentee to pay
40 the civil penalty or to contest the notice of violation.

1 (6) An affidavit of nonliability, and information of what
2 constitutes nonliability, information as to the effect of executing
3 the affidavit, and instructions for returning the affidavit to the
4 processing agency. If the affidavit of nonliability is returned to the
5 processing agency within 30 calendar days of the mailing of the
6 notice of violation, together with proof of a written lease or rental
7 agreement between a bona fide rental or leasing company and its
8 customer, which identifies the rentee or lessee, the processing
9 agency shall serve or mail a notice of violation to the rentee or
10 lessee identified in the affidavit of nonliability.

11 (7) A notice to the registered owner that unless the registered
12 owner pays the civil penalty or contests the notice within 30
13 calendar days after the mailing of the notice of violation, or
14 completes and files an affidavit of nonliability, the renewal of the
15 vehicle registration shall be contingent upon compliance with the
16 notice of violation. If the registered owner, by appearance or by
17 mail, makes payment to the processing agency within 30 calendar
18 days after the mailing of the notice of violation, the civil penalty
19 shall consist solely of the amount of the original civil penalty.

20 (f) Revenues derived from any program utilizing an ASE system
21 for speed limit enforcement shall be used to recover program costs.
22 Any remaining revenue shall be used only for pedestrian safety or
23 other roadway traffic safety improvements.

24 22427. (a) For a period of 30 calendar days from the mailing
25 of a notice of violation, a person may request an initial review of
26 the notice by the issuing agency. The request may be made by
27 telephone, in writing, or in person. There shall be no charge for
28 this review. If, following the initial review, the issuing agency is
29 satisfied that the violation did not occur, or that extenuating
30 circumstances make dismissal of the notice of violation appropriate
31 in the interest of justice, the issuing agency shall cancel the notice
32 of violation. The issuing agency shall advise the processing agency,
33 if any, of the cancellation. The issuing agency or the processing
34 agency shall mail the results of the initial review to the person
35 contesting the notice, and, if cancellation of the notice does not
36 occur following that review, include a reason for that denial,
37 notification of the ability to request an administrative hearing, and
38 notice of the procedure adopted pursuant to subdivision (b) for
39 waiving prepayment of the civil penalty based upon an inability
40 to pay.

1 (b) (1) If the person contesting the notice of violation is
2 dissatisfied with the results of the initial review, the person may,
3 no later than 21 calendar days following the mailing of the results
4 of the issuing agency's initial review, request an administrative
5 hearing of the violation. The request may be made by telephone,
6 in writing, or in person.

7 (2) The person requesting an administrative hearing shall pay
8 the amount of the civil penalty to the processing agency. The
9 issuing agency shall adopt a written procedure to allow a person
10 to request an administrative hearing without payment of the civil
11 penalty upon satisfactory proof of an inability to pay the amount
12 due. The administrative hearing shall be held within 90 calendar
13 days following the receipt of a request for an administrative
14 hearing. The person requesting the hearing may request one
15 continuance, not to exceed 21 calendar days.

16 (c) The administrative hearing process shall include all of the
17 following:

18 (1) The person requesting a hearing shall have the choice of a
19 hearing by mail or in person. An in-person hearing shall be
20 conducted within the jurisdiction of the issuing agency.

21 (2) If the person requesting a hearing is a minor, that person
22 shall be permitted to appear at a hearing or admit responsibility
23 for the automated speed violation without the necessity of the
24 appointment of a guardian. The processing agency may proceed
25 against the minor in the same manner as against an adult.

26 (3) The administrative hearing shall be conducted in accordance
27 with written procedures established by the issuing agency and
28 approved by the governing body or chief executive officer of the
29 issuing agency. The hearing shall provide an independent,
30 objective, fair, and impartial review of contested automated speed
31 violations.

32 (4) (A) The issuing agency's governing body or chief executive
33 officer shall appoint or contract with qualified independent
34 examiners or administrative hearing providers that employ qualified
35 independent examiners to conduct the administrative hearings.
36 Examiners shall demonstrate the qualifications, training, and
37 objectivity necessary to conduct a fair and impartial review. The
38 examiner shall be separate and independent from the notice of
39 violation collection or processing function. An examiner's
40 continued employment, performance evaluation, compensation,

1 and benefits shall not, directly or indirectly, be linked to the amount
2 of civil penalties collected by the examiner or the number or
3 percentage of violations upheld by the examiner.

4 (B) (i) Examiners shall have a minimum of 20 hours of training.
5 The examiner is responsible for the costs of the training. The
6 issuing agency may reimburse the examiner for those costs.
7 Training may be provided through any of the following:

8 (I) An accredited college or university.

9 (II) A program conducted by the Commission on Peace Officer
10 Standards and Training.

11 (III) A program conducted by the American Arbitration
12 Association or a similar organization.

13 (IV) Any program approved by the governing body or chief
14 executive officer of the issuing agency, including a program
15 developed and provided by, or for, the agency.

16 (ii) Training programs may include topics relevant to the
17 administrative hearing, including, but not limited to, applicable
18 laws and regulations, enforcement procedures, due process,
19 evaluation of evidence, hearing procedures, and effective oral and
20 written communication. Upon the approval of the governing body
21 or chief executive officer of the issuing agency, up to 12 hours of
22 relevant experience may be substituted for up to 12 hours of
23 training. Up to eight hours of the training requirements described
24 in this subparagraph may be credited to an individual, at the
25 discretion of the governing body or chief executive officer of the
26 issuing agency, based upon training programs or courses described
27 in this subparagraph that the individual attended within the last
28 five years.

29 (5) The peace officer or designated municipal employee who
30 issues a notice of violation shall not be required to participate in
31 an administrative hearing. The issuing agency shall not be required
32 to produce any evidence other than, in proper form, the notice of
33 violation or copy thereof, including the photograph, video, or other
34 visual image of the vehicle's license plate, and information received
35 from the Department of Motor Vehicles identifying the registered
36 owner of the vehicle. The documentation in proper form shall be
37 prima facie evidence of the violation.

38 (6) The examiner's final decision following the administrative
39 hearing may be personally delivered to the person by the examiner
40 or sent by first-class mail.

1 (7) Following a determination by the examiner that a person
2 has committed the violation, the examiner may, consistent with
3 the written guidelines established by the issuing agency, allow
4 payment of the civil penalty in installments, or an issuing agency
5 may allow for deferred payment or payments in installments, if
6 the person provides evidence satisfactory to the examiner or the
7 issuing agency, as the case may be, of an inability to pay the civil
8 penalty in full. If authorized by the governing body of the issuing
9 agency, the examiner may permit the performance of community
10 service in lieu of payment of the civil penalty.

11 (8) If a notice of violation is dismissed following an
12 administrative hearing, any civil penalty, if paid, shall be refunded
13 by the issuing agency within 30 days.

14 22428. (a) Within 30 days after personal delivery or mailing
15 of the final decision described in subdivision (c) of Section 22427,
16 the contestant may seek review by filing an appeal to the superior
17 court, where the case shall be heard de novo, except that the
18 contents of the processing agency's file in the case on appeal shall
19 be received in evidence. A copy of the notice of violation shall be
20 admitted into evidence as prima facie evidence of the facts stated
21 in the notice. A copy of the notice of appeal shall be served in
22 person or by first-class mail upon the processing agency by the
23 contestant. For purposes of computing the 30-day period, Section
24 1013 of the Code of Civil Procedure shall be applicable. A
25 proceeding under this subdivision is a limited civil case.

26 (b) The fee for filing the notice of appeal shall be as provided
27 in Section 70615 of the Government Code. The court shall request
28 that the issuing agency's file on the case be forwarded to the court,
29 to be received within 15 calendar days of the request. The court
30 shall notify the contestant of the appearance date by mail or
31 personal delivery. The court shall retain the fee under Section
32 70615 of the Government Code regardless of the outcome of the
33 appeal. If the appellant prevails, this fee and any payment of the
34 civil penalty shall be promptly refunded by the issuing agency in
35 accordance with the judgment of the court.

36 (c) The conduct of the hearing on appeal under this section is
37 a subordinate judicial duty that may be performed by a
38 commissioner or other subordinate judicial officer at the direction
39 of the presiding judge of the court.

1 (d) If a notice of appeal of the examiner’s decision is not filed
2 within the period set forth in subdivision (a), the decision shall be
3 deemed final.

4 (e) If the civil penalty has not been paid and the decision is
5 adverse to the contestant, the processing agency may, promptly
6 after the decision becomes final, proceed to collect the civil penalty
7 under Section 22426.

8 22429. If the payment of the civil penalty is not received by
9 the person authorized to receive payment of the civil penalty by
10 the time and date fixed for appearance on the notice of violation
11 under Section 22426, the processing agency may assess delinquent
12 fees, as determined by the issuing agency, and may proceed to
13 collect the civil penalty under Section 22426.

14 22429.5. (a) The City of San Jose and the City and County of
15 San Francisco shall offer a diversion program for certain
16 low-income ASE system violation recipients to perform community
17 service in lieu of paying the penalty for an ASE system violation.

18 (b) The City of San Jose and the City and County of San
19 Francisco shall offer the ability for certain low-income ASE system
20 violation recipients to pay applicable fines and penalties over a
21 period of time under a payment plan.

22 22430. (a) Except as provided in subdivision (c), the
23 department shall refuse to renew the registration of a vehicle if the
24 registered owner has been mailed a notice of violation under this
25 article, the processing agency has filed or electronically transmitted
26 to the department an itemization of unpaid civil penalties, including
27 administrative fees pursuant to Section 22431, and the owner has
28 not paid the civil penalty and administrative fees, unless he or she
29 pays to the department, at the time of application for renewal, the
30 full amount of all outstanding civil penalties and administrative
31 fees, as shown by records of the department.

32 (b) When the department receives the full amount of all
33 outstanding civil penalties and administrative fees pursuant to
34 subdivision (a), it shall issue a receipt showing each civil penalty
35 and the administrative fees that have been paid, the processing
36 agency for that penalty and fee, and a description of the vehicle
37 involved in the automated speed violations.

38 (c) The department shall not refuse to renew the registration of
39 a vehicle under either of the following circumstances:

1 (1) If the applicant provides the department with the abstract or
2 notice of disposition of the violation for clearing all outstanding
3 civil penalties and administrative fees as shown by the records of
4 the department.

5 (2) If the notice of violation was issued prior to the registered
6 owner taking possession of the vehicle or if the notice of violation
7 was reissued to a third party.

8 22431. (a) The department shall remit all civil penalties and
9 administrative fees collected, after deducting the administrative
10 fees authorized in subdivision (b), for each notice of violation for
11 which penalties and administrative fees have been collected, to
12 the processing agency in the amount due. Within 45 days from the
13 time penalties are recorded by the department, the department shall
14 inform the municipality which of its notices of violation have been
15 discharged.

16 (b) The department shall assess a fee for the recording of the
17 notice of violation in an amount, as determined by the department,
18 that is no more than the amount sufficient to provide a total amount
19 equal to its actual administrative costs.

20 22431.5. The City of San Jose and the City and County of San
21 Francisco shall each develop and submit to their respective
22 governing body an ASE System Report, two years after initial
23 implementation of the ASE program and at the end of the ASE
24 pilot program, that includes all of the following information:

25 (a) A description of how the ASE system was used.

26 (b) Whether and how often any ASE system data was shared
27 with outside entities, the name of any recipient entity, the type or
28 types of data disclosed, and the legal reason for the disclosure.

29 (c) A summary of any community complaints or concerns about
30 the ASE system.

31 (d) Results of any internal audits, information about any
32 violations of the ASE System Use Policy, and any actions taken
33 in response.

34 (e) Information regarding the impact the ASE system has had
35 on the streets where the ASE system was deployed.

36 (f) A summary of any public record act requests.

37 22432. The City of San Jose and the City and County of San
38 Francisco shall each, on or before March first of the fifth year in
39 which the ASE system has been implemented, submit to the
40 transportation committees of the Legislature an evaluation of the

1 ASE system in their respective jurisdictions to determine the
2 system’s impact on highway safety and the system’s economic
3 impact on the communities where the system is utilized. The report
4 shall be made available on the Internet Web sites of the two
5 jurisdictions and shall include all of the following information:

6 (a) Before and after data on the number and proportion of
7 vehicles speeding between 10 to 19, inclusive, miles per hour over
8 the legal speed limit, 20 to 29, inclusive, miles per hour over the
9 legal speed limit, 30 to 39, inclusive, miles per hour over the legal
10 speed limit, and every additional 10 miles per hour increment
11 thereafter on a street or portion of a street in which an ASE system
12 is used to enforce speed limits. To the extent feasible, the data
13 should be collected at the same time of day, day of week, and
14 location.

15 (b) The number of notices of violation issued under the program
16 by month and year and the corridors or locations where violations
17 occurred and, to the extent feasible, the day of the week and time
18 the violation occurred.

19 (c) Before and after data on the number of traffic collisions,
20 categorized by injury severity (such as property damage only,
21 complaint of pain, other visible injury, or severe or fatal injury)
22 that occurred where ASE systems are used relative to citywide
23 data and the transportation mode of the parties involved.

24 (d) The number of violations paid, the number of delinquent
25 violations, and the number of violations for which an initial review
26 is requested. For the violations in which an initial review was
27 requested, the report shall indicate the number of violations that
28 went to initial review, administrative hearing, and de novo hearing,
29 the number of notices that were dismissed at each level of review,
30 and the number of notices that were not dismissed after each level
31 of review.

32 22433. This article shall remain in effect only until January 1,
33 2024, and as of that date is repealed, unless a later enacted statute
34 that is enacted before January 1, 2024, deletes or extends that date.

35 SEC. 9. The Legislature finds and declares that a special statute
36 is necessary and that a general statute cannot be made applicable
37 within the meaning of Section 16 of Article IV of the California
38 Constitution because of the unique circumstances with traffic speed
39 enforcement in the City of San Jose and the City and County of
40 San Francisco.

1 SEC. 10. The Legislature finds and declares that Section 8 of
2 this act, which adds Article 3 (commencing with Section 22425)
3 to Chapter 7 of Division 11 of the Vehicle Code, imposes a
4 limitation on the public’s right of access to the meetings of public
5 bodies or the writings of public officials and agencies within the
6 meaning of Section 3 of Article I of the California Constitution.
7 Pursuant to that constitutional provision, the Legislature makes
8 the following findings to demonstrate the interest protected by this
9 limitation and the need for protecting that interest:
10 In order to protect the personally identifiable information of
11 California drivers, it is necessary that this act limit the public’s
12 right of access to that information.

O