

Date of Hearing: April 19, 2022

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Jesse Gabriel, Chair

AB 2336 (Friedman) – As Amended March 22, 2022

SUBJECT: Vehicles: Speed Safety System Pilot Program

SUMMARY: Establishes a five-year pilot program to give local transportation authorities in the Cities of San Jose, Oakland, Los Angeles, Glendale, one unspecified southern California city, and the City and County of San Francisco the authority to install speed safety systems.

Specifically, **this bill:**

- 1) Authorizes a five-year speed safety system pilot program, from 2023 to 2028, in San Jose, Oakland, Los Angeles, Glendale, one unspecified Southern California city, and San Francisco to enforce speed limits on no more than 15% of their streets in the following areas:
 - The streets with the highest injuries and fatalities in the jurisdiction, referred to as a safety corridor.
 - On a street a local authority has determined to have had a high number of incidents for motor vehicle speed contests or motor vehicle exhibitions of speed.
 - School zones.
- 2) Defines a “speed safety system” as a fixed or mobile radar or laser system or any other electronic device that utilizes automated equipment to detect a violation of speeding laws and is designed to obtain a clear photograph, video recording, or other visual image of a vehicle license plate and defines “automated speed violation” as a violation of a speed law detected by a speed safety system operated pursuant to this article.
- 3) Specifies that speed safety systems are not to be operated on any California state route, including all freeways and expressways, U. S. Highway, Interstate Highway or any public road in an unincorporated county where the Commissioner of the California Highway Patrol (CHP) has full responsibility and primary jurisdiction for the administration and enforcement of the laws, and for the investigation of traffic accidents.
- 4) Provides that a speed safety system shall not continue to operate on any given street if within the first 18 months of installation of a system, at least one of the following thresholds has not been met:
 - Percentage of automated speed violations decreased by at least 25%.
 - Percentage of violators who received two or more violations decreased by at least 50%.
- 5) Provides that the cameras may continue to operate if traffic calming measures are added to the street and authorizes the cameras to continue to be used for up to two years, with a vehicle speed feedback sign while traffic calming measures are being planned or constructed. If construction of traffic calming measures has not begun within two years, use of cameras

shall be halted. If violations do not decrease one year after traffic calming measures have been added, then a city or county shall either construct additional traffic-calming measures or cease operation of the system on that street.

- 6) Defines “traffic calming measure” to include, but not be limited to: bicycle lanes, chicanes, chokers, curb extensions, median islands, raised crosswalks, road diets, roundabouts, speed humps or speed tables, and traffic circles.
- 7) Permits the use of speed safety systems in school zones two hours before school and two hours after school where the posted speed limit is 30 mph or higher when children are not present.
- 8) Prohibits the use of mobile systems for the first two years of the pilot.
- 9) Provides that speed safety systems must:
 - Clearly identify the presence of the fixed or mobile speed safety system with signs stating “Photo Enforced,” along with the posted speed limit. The signs must be visible to traffic and posted at all locations, as determined by the California Department of Transportation (Caltrans) and the local California Traffic Control Devices Committee;
 - Identify vehicles containing a mobile speed safety system with distinctive markings, including information that the system is being operated for “Photo Enforcement” purposes, identify the streets or portions of streets that have been approved for speed safety systems, and post the locations and hours of enforcement on the municipality’s Internet website.
 - Use properly trained designated municipal employees, as specified, to operate the speed safety systems and make determinations on when notices of violation should be issued. Requires training and proof of successful completion of peace officer and municipal training to be retained by the pilot cities, as specified.
 - Ensure regular inspection and certification of the speed safety system to ensure proper calibration; conduct an annual inspection by independent calibration laboratory; and document the inspection, operation, and calibration of the speed safety system.
 - Use fixed and mobile speed safety systems that provide real-time notification when violations are detected.
- 10) Requires the pilot cities to meet numerous consumer protection and privacy conditions including:
 - Conduct a public information campaign for 30 days before deployment.
 - Only issue warning notices during the first 30 days of enforcement.
 - Prior to implementation, adopt a Speed Safety System Use Policy and a Speed Safety System Impact Report and work collaboratively with relevant local stakeholder

organizations, including racial equity, privacy protection, and economic justice groups to develop these.

- Include a clear photograph, video recording, or other visual image of the license plate and rear of the vehicle only, a citation of the law violated, the camera location, and the date and time when the violation occurred. Notices of violation must exclude images of the rear window area of the vehicle.
- Keep speed safety system data and records confidential, except as required by the Public Records Act. The pilot cities are permitted to retain speed safety system data and evidence for 60 days and speed safety system administrative records for 120 days following final disposition of a violation, but are required to destroy any speed safety system data within five days if the data shows no evidence of a speeding violation.
- Give the registered owner of the vehicle or an individual identified by the registered owner as the driver of the vehicle at the time of the alleged violation the right to review the photographic, video, or visual evidence of the alleged violation.
- Prohibits the use of facial recognition software.
- Require information collected and maintained using a speed safety system to be used only to administer a speed safety system program and prohibits disclosure to any other person, including a state or federal agency, except as required by law, court order or subpoena.
- Meet vendor contracting requirements, as specified, including a requirement that any speed safety system data collected is confidential and may not be shared, repurposed, or monetized for purposes other than speed safety system enforcement.
- Issue violations only for violation of speeding 11 miles per hour (mph) or more over the posted speed limit, that carry a civil penalty of \$50, \$100, \$200 or \$500, cannot be used to suspend or revoke a driver's license, and cannot be used to assess a point against the driver.
- Provides an appeals process, as specified, including a diversion program for indigent violators, as specified.
- Use revenues from the speed safety system to recover program costs, build traffic calming measures, with excess revenue after three years going to the state's Active Transportation Program (ATP).
- Submit a Speed Safety System Report to the Legislature after the fifth and final year of the pilot.
- Requires the pilot cities to reduce ticket fines and penalties by 80% for people with household incomes less than 125% of the Federal Poverty Level and for people who receive CalFresh benefits, Supplemental Security Income (SSI), or Medi-Cal benefits, and by 50% for those living 200% above the federal poverty line.

- 11) Authorizes cities to transfer to the registration of a vehicle the penalties for offenses detected by a speed safety system.

EXISTING LAW:

- 1) Establishes a “basic speed law” that prohibits a person from driving a vehicle 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. (Veh. Code Sec. 22350 *et seq.*)
- 2) Authorizes the use of automated traffic enforcement systems (i.e., red light cameras) at railroad crossings and intersections to record violations of unlawful grade crossings and running of red lights. (Veh. Code Secs. 22451, 21455.5, and 40518.)
- 3) Requires a peace officer or “qualified employee” of a law enforcement agency to review the photograph taken by an automated traffic enforcement system and issue a citation, as appropriate. (Veh. Code Sec. 21455.5(c)(2)(F).)
- 4) Conditions the use of red light cameras on several requirements and procedures, as specified. (Veh. Code Sec. 21455.5 *et seq.*)
- 5) Defines “Safety Corridor” as the 20% of a local jurisdictions streets with the highest injuries and fatalities, with a definition to be determined by Caltrans in the next revision of the California Manual on Uniform Traffic Control Devices. (Veh. Code Sec. 22358.7(b)(1).)
- 6) Authorizes jurisdictions to lower speed limits in safety corridors by 5 mph from the existing speed limit established by an engineering and traffic survey. (Veh. Code Sec. 22358.7(a).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Purpose of this bill:** This bill seeks to reduce traffic fatalities by establishing a five-year pilot program authorizing specified cities to install speed safety systems. This bill is author sponsored.
- 2) **Author’s statement:** According to the author:

Since the 1980s communities around the world have been using speed safety systems to slow drivers down. These cameras have proven to be widely effective. A 2005 systematic review of 14 studies of speed safety systems in Canada, Europe, Australia, and New Zealand found crash reductions of 5 to 69%, injury reductions of 12 to 65%, and fatality reductions of 17 to 71% at speed safety system locations after program implementation. Speed safety systems are used in over 150 communities across the United States, and more recently became eligible for federal funding under the Bipartisan Infrastructure Investment and Jobs Act as part of a new nationwide goal to achieve zero traffic fatalities. It is finally time for California to join 16 other states and authorize the use of speed safety systems.”

- 3) **Background:** AB 2363 (Friedman, Ch. 650, Stats. 2018) established the Zero Traffic Fatality Task Force (Task Force) in order to develop policies to reduce traffic fatalities to zero in California. Per this legislation, the California State Transportation Agency (CalSTA) formed the 25-member Task Force on June 5, 2019. Members of the Task Force included representatives from the California Highway Patrol, the University of California and other academic institutions, Caltrans, the State Department of Public Health, local governments, bicycle safety organizations, statewide motorist service membership organizations, transportation advocacy organizations, and labor organizations.

In January 2020, CalSTA in conjunction with the Task Force, released the *CalSTA Report of Findings: AB 2363 Zero Traffic Fatalities Task Force*. The report includes 27 policy recommendations, and 16 findings recommendations that are broken into four categories: establishing speed limits, engineering, enforcement, and education. Last year the Legislature passed AB 43 (Friedman, Ch. 690, Stats. 2021), which enacted several of the recommendations of that task force to give cities more flexibility to lower speed limits, including on the highest injury streets. Based on those recommendations, this bill would authorize cameras to be placed on safety corridors, which AB 43 defined as 20% of local authorities' streets with the highest injuries

The City of Los Angeles writes in support of this bill:

Years of national research, the laws of physics and common sense all point to an established fact about street safety: the faster people drive, the more dangerous and deadly our roads become. Speed is the number one factor in crash severity. Nationwide, 112,580 people were killed in speeding-related incidents from 2005 to 2014. California is no exception: every year for the past five years, more than 1,000 Californians have died in speed-related traffic collisions. Tens of thousands more have been injured. These deaths and injuries are preventable.

Across the United States, numerous peer-reviewed studies have shown that speed detection systems reduce the number of severe and fatal collisions by as much as 58 percent. Despite an established history, California law currently prohibits the use of these systems. Studies have shown that speed is the leading factor when determining fault in fatal and severe collisions, yet existing efforts have not led to the reduction in speed and traffic violence needed to save lives and make communities safe. California must provide communities with the option to pilot this public safety tool in order to create the expectation of regular speed checking on the most dangerous streets, in school zones, and on streets with a history of speed racing and motor vehicle exhibitions of speed.

In order to make sure the cameras are placed in areas where they can effectively reduce speed and not in areas that would bring in the most revenue, this bill provides that if the number of violations has not decreased by 25% over the course of 18 months, or the number of second violations has decreased by 50%, then the cameras cannot be used in that location unless traffic calming measures are installed. Cities would have two years to build the traffic calming measures, and during those two years, a vehicle speed feedback sign must be used. Feedback signs have been shown to reduce speeds by 3-4 mph and reduce crashes by 7%. If the traffic calming measures are not constructed in two years, the cameras can no longer be used. If the calming measures are not effective at reducing violations within a year, then additional calming measures must be installed, or the localities must halt the use of the cameras.

The Western States Trucking Association, writing in opposition to this bill, argues:

While WSTA appreciates your efforts to improve the safety of the motoring public, AB 2336 is excessively overbroad for a “pilot program.” It authorizes an unnecessarily large number of speed cameras to enforce any speed law, either through a fixed or mobile speed camera, within the cities of Los Angeles, Oakland, San Jose, San Francisco, as well as two other unnamed cities. Such cameras would only be required to cease operations within 18 months if one of the following thresholds has not been met: 1) automated speed violations were decreased by at least 25%; or 2) violators who received two or more violations decreased by at least 50%. Nevertheless, such thresholds can be ignored entirely, and the speed cameras can continue to be used, if certain “traffic calming measures” are implemented – many of which, including adding bike lanes and raised crosswalks, are not true traffic calming measures.

Nonetheless, this bill has broad support from a number of municipalities and nonprofits. The National Safety Council (NSC), a nonprofit safety advocacy group, writes in support:

Automated enforcement technologies are a proven life-saving tool. According to a system analysis completed by the National Highway Traffic Safety Administration (NHTSA), automated enforcement is highly effective in slowing down drivers and saving lives on the roadways. Automated enforcement helps ensure people drive at posted speed limits, which reduces the severity and likelihood of crashes.

- 4) **Privacy protections included in bill:** The author has included a number of provisions in this bill to ensure that the privacy of drivers is protected in the communities authorized to use speed safety systems. For example, the bill requires that video, or other visual or administrative records generated by the speed safety system be confidential, and shall only be used to administer a program, and shall not be disclosed to any other persons, including any other state or federal government agency or official for any other purpose, except as required by state or federal law, or court order.

The pilot cities are only permitted to retain speed safety system data and evidence for 60 days and speed safety system administrative records for 120 days following final disposition of a violation, after which the data, evidence, and administrative records must be destroyed in a manner that maintains the confidentiality of any person included in the evidence. Cities are also required to destroy any speed safety system data within five days if the data shows no evidence of a speeding violation. Finally, the bill also ensures that any vendors are held to these same standards and provides that any speed safety system data collected is confidential and may not be shared, repurposed, or monetized for purposes other than speed safety system enforcement. The bill additionally prohibits the use of facial recognition software.

While appreciative of the author’s efforts to address some privacy concerns, a coalition of organizations including Safer Streets LA, ACLU California Action, Electronic Frontier Foundation, and the Teamsters, among others (hereinafter “Coalition”), oppose this bill and write:

Automated traffic enforcement systems, such as those authorized by this bill, also raise numerous privacy concerns. By encouraging the use of surveillance technologies, like automated license plate readers (ALPRs), for enforcement of speed limits, AB 2336

subjects Californians to increased surveillance and perpetuates the false notion that this surveillance benefits the communities that are surveilled. The need for enforcement of speed limits does not warrant the creation of a new mechanism for government collection of large amounts of data on Californians.

While we appreciate efforts to address some of the privacy concerns with the surveillance technology, the bill does not strike the appropriate balance between personal privacy and government transparency. For example, by making all information captured by the systems confidential, even administrative data about how many people are being ticketed and at what speeds, the bill ensures no data about the harmful impact of the program will ever be publicly available.

Regarding the contention that the confidentiality protections in the bill will prohibit appropriate oversight of the program, the author offers the following amendment which would provide that data about the number of violations issued and the speeds at which they were issued are not “administrative records” under the bill, and therefore do not have to be deleted within 120 days. In practice, this should allow a critical oversight function of the bill, removing speed safety systems from streets where the percentage of violators who received two or more violations decreased by at least 50%, as specified. It may also ensure that these de-identified data are available pursuant to the Public Records Act, thereby ensuring a higher level of government transparency.

Author’s amendment:

On page 12, line 16, after “impacts of the system.” add “*data about the number of violations issued and the speeds at which they were issued for is not considered administrative records for the purposes of this section.*”

- 5) **Equity considerations included in bill:** The cost of fines and fees associated with traffic and parking citations has steadily increased over the last few decades. After adding on fees to base fines, tickets can total hundreds of dollars. Add-on fees for minor offenses double or quadruple the original fine, and until recently California suspended driver’s licenses for failure to pay traffic fines or for failing to appear to court for a traffic infraction.

Recognizing the impact traffic fines and fees have had on countless Californians, this bill includes several provisions to protect against burdensome fines. First, the fines in this bill are significantly lower than existing fines for speeding tickets. Fines are \$50 for going 11-15 mph over the speed limit, \$100 for going 15-25 mph over the speed limit, and \$200 for going 25 mph over the speed limit. Individuals going 100 mph over the speed limit will face a \$500 fine. In contrast, under existing law driving 1-15 mph over the speed limit results in a \$238 ticket. Driving 16-25 mph over the speed limit results in a \$367 ticket. Driving 26 mph over the speed limit would result in a \$490 ticket. Driving 100 mph or greater is a \$900 ticket.

Despite the limitations on fines required by the bill, the Peace Officers’ Research Association of California writes in opposition:

Although the fine is no more than \$125, it is still a lot to low-income families and senior citizens. We have seen the amount charged for tickets escalate rapidly. When you consider the penalty assessment added onto most tickets, it is often burdensome.

Our research indicates that many cities around the country have used automated speed enforcement and ultimately removed it. Even San Jose, which AB 2336 includes, had it from 1997 to 2003, and it was discontinued over 18 years ago—leading us to believe this is more about revenue generation than actual safety.

Furthermore, law enforcement officers use discretion and provide drivers an opportunity to mitigate the violation. Verbal and written warnings are often given in place of a ticket. They assess the situation, and after a conversation with the driver, they decide if a verbal or written warning is a better course of action. Law enforcement exercises discretion; cameras do not.

In the same vein, the Coalition raises several due process concerns, including the absence of any requirement that a municipality show that the required signage was in place or that the speed safety system was operating correctly; no requirement of proof that a ticket was received; and the fact that the bill does not allow for any extensions for those who cannot afford the fine. The Coalition argues in opposition:

[A]nyone who misses a deadline or does not have the resources to pay the fines will not be able to register their vehicles. Drivers who need to use the vehicle to get to work, drop their child off at school, or other life necessities will continue to do so regardless of registration status, subjecting them to more stops and ticketing in a continual downward legal and economic spiral. Women of color, particularly Black and Latinx women, are especially likely to suffer under AB 2336 because they tend to bear the brunt of the cost of citations, regardless of whether they incurred the citations.

Heeding this concern, and attempting to strike the appropriate balance, the author offers the following amendment, which would remove the sections of the bill authorizing a lien to be placed on a vehicle for failure to pay for offenses detected by a speed safety system.

Author's amendment:

Strike Sections 4 and 5 from the bill.

In seeking to appropriately balance due process concerns with the safety goals of this bill, the author has also ensured that drivers will not face negligent operator points if they receive a speeding ticket from a speed safety system. Generally, speeding tickets result in negligent operator points. The point system is used by DMV to determine if a driver should be considered a negligent operator. DMV may suspend or revoke a person's driving privilege for being a negligent operator. Also, points increase an individual's insurance rates. In addition to lower fines when compared to a traditional speeding ticket, this bill requires diversion programs to be offered to indigent persons. In addition, fines must be reduced by 80% for indigent individuals, and by 50% for those 200% above the federal poverty line. Payment plans of \$25 a month must also be offered. Finally, tickets are limited to one per day per car.

The author has also considered the unequal enforcement of traffic violations against African Americans in California. AB 593 (Weber, Ch. 466, Stats. 2015), enacted the Racial and Identity and Profiling Act (RIPA) of 2015, which requires local agencies to annually report data to the Attorney General on all stops conducted by peace officers. Data from that report

shows that African Americans are disproportionately stopped by law enforcement, and were more likely to be searched or detained than their white counterparts.

Speed cameras have often been viewed by some as a potential solution to discriminatory stops. However, it is important to note that some of the most dangerous roads in California and in the United States are in minority communities. As a result of these dangerous roads, people of color are disproportionately effected by traffic collisions. According to NRSS, African Americans, Latinos and Native Americans pedestrians are more likely to be killed in a traffic collision. The requirement for traffic calming measures to be added to areas where speed cameras exist and fail to curb speed violations should also help make these roads safer.

Finally, this bill attempts to further address equity concerns regarding the enforcement of traffic laws by requiring organizations that represent minority communities to be involved in the placement of these cameras.

In support of this bill, Streets for All, an LA County-based nonprofit advocating for safe, sustainable, equitable transportation writes:

AB 2336 was designed with equity in mind. Unlike the red light program, which results in hefty \$500 fines, AB 2336 has significantly lower fines starting at \$50 for going 11 miles per hour (mph) over the speed limit. Cities will be required to reduce fines for those under the poverty line by 80% or offer community service. The bill also requires cities to reduce fines by 50% for individuals 200% above the federal poverty line. Cities will be required to spend the revenue on engineering safer streets, cannot shift existing expenditures to backfill the new revenue, and will have to send the money to the state Active Transportation Program if they do not invest in safety measures within three years.

- 6) **Additional Author amendments to address opposition concerns:** The author offers three additional amendments. First, the author would like to designate Palm Springs as the final city authorized to participate in the pilot. Second, in response to concerns that the bill would not provide residents with adequate notice or visibility regarding speed safety systems in school zones, the author offers an amendment to require flashing beacons on the school zone speed limit sign to indicate the times during which the school zone speed limit is enforced with a speed safety system, and clarifies that the cameras may be in use *up to* two hours before and after school.

Finally, the author extends the time warnings must be issued rather than notices of violation when speed safety systems are first installed from 30 to 60 days.

Author's amendments:

- 1) On page 22, line 22, strike "one southern California city" and insert "***Palm Springs***"
- 2) On page 9, line 21, after "safety system" insert "***up to***"

On page 9, line 22, after "session begins and" insert "***up to***"

On page 9, line 23, after "session concludes." insert "***For these school zones, flashing beacons activated by a time clock, or other automatic device, or manually***"

activated shall be installed on the school zone speed limit sign and active to indicate the times during which the school zone speed limit is enforced with a speed safety system.”

3) On page 10, lines 26 and 31, strike “30” and replace with “60”.

- 7) **Prior legislation:** AB 43 (Friedman, Ch. 690, Stats. 2021), grants the Caltrans and local authorities greater flexibility in setting speed limits based on recommendations the Zero Traffic Fatality Task Force (Task Force) made in January 2020.

AB 550 (Chiu, 2021) was substantially similar to this bill. That bill was held on suspense in Assembly Appropriations Committee.

SB 735 (Rubio, 2021) authorized the use of ASE cameras in school zones. That bill died in Senate Transportation Committee.

AB 2363 (Friedman, Ch. 650, Stats. 2018), created the Zero Traffic Fatalities Task Force.

AB 342 (Chiu, 2017) would have established a five-year pilot program to give local transportation authorities in the City of San Jose and the City and County of San Francisco the authority to install ASE systems in the two municipalities.

SB 1325 (Kuehl, 2008) would have authorized the City of Beverly Hills to deploy an ASE system. SB 1325 failed passage in the Senate Transportation and Housing Committee.

SB 1300 (Kuehl, 2006) was similar to SB 1325 (Kuehl, 2008). SB 1300 failed passage in the Senate Transportation and Housing Committee.

SB 466 (Kuehl, 2005) was similar to SB 1325 (Kuehl, 2008). SB 466 failed passage in the Senate Transportation and Housing Committee.

AB 1022 (Oropeza, Ch. 511, Stats. 2003), refined the red light camera provisions after a number of legal challenges arose concerning the operation of the automated systems. These changes clarified responsibility for operation and maintenance of the system by local authorities and private contractors, the involvement of law enforcement personnel in citation issuance, restrictions on compensation to vendors, and the required consideration of alternative methods of enforcement.

SB 1136 (Kopp, Ch. 54, Stats. 1998), authorized the use of automated enforcement systems at red lights indefinitely.

SB 833 (Kopp, Ch. 922, Stats. 1995), authorized a three-year demonstration period to test the use and effectiveness of such cameras to reduce the incidence of drivers running red lights at intersections.

SB 1802 (Rosenthal, Ch. 1216, Stats. 1994), authorized the use of red light cameras to record violations occurring at rail crossing signals and gates.

- 8) **Double referral:** This bill was referred to the Assembly Transportation Committee where it was heard on March 28, 2022 and passed out 12-0.

REGISTERED SUPPORT / OPPOSITION:

Support

Alameda County Transportation Commission
 Alameda; City of
 Association of Bay Area Governments (ABAG)
 Bay Area Council
 Berkeley; City of
 California Bicycle Coalition
 City of Concord
 City of Los Angeles
 City of Saratoga
 Conor Lynch Foundation
 Marin County Bicycle Coalition
 Mayor of City & County of San Francisco London Breed
 Metropolitan Transportation Commission
 Move La, a Project of Community Partners
 National Safety Council
 Oakland; City of
 San Francisco Bay Area Families for Safe Streets
 San Francisco County Transportation Authority
 San Francisco Municipal Transportation Agency (SFMTA)
 SoCal Families for Safe Streets
 Spur
 Streets are For Everyone (SAFE)
 Streets for All
 The East Cut Community Benefit District
 The San Fernando Valley Young Democrats
 Vision Zero Network
 Walk San Francisco

Opposition

ACLU California Action
 California Conference Board of The Amalgamated Transit Union
 California Teamsters Public Affairs Council
 Electronic Frontier Foundation
 Lawyers Committee for Civil Rights of The San Francisco Bay Area
 Peace Officers Research Association of California (PORAC)
 Privacy Rights Clearinghouse
 Safer Streets LA
 Western States Trucking Association

Analysis Prepared by: Nichole Rocha / P. & C.P. / (916) 319-2200