

Date of Hearing: April 25, 2023

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Jesse Gabriel, Chair

AB 645 (Friedman) – As Amended March 30, 2023

As Proposed to be Amended

**SUBJECT:** Vehicles: speed safety system pilot program

**SYNOPSIS**

*This author sponsored bill proposes establishing an automated speed enforcement (ASE) system pilot project in the cities of Glendale, Long Beach, Los Angeles, Oakland, San Francisco, and San Jose. According to one of the bill's co-sponsors, the City of San Jose, 2022 proved to be their deadliest year on record when it came to traffic fatalities. The purpose of this bill, according to the author, is for California to join 18 other states and the District of Columbia by authorizing the use of speed safety systems in order to slow traffic and reduce the number of traffic fatalities.*

*It is important to note that one of the intentions of this bill is also to reduce the burden associated with receiving a speeding ticket on lower income people. The cost of fines and fees associated with traffic and parking citations has steadily increased over the last few decades. 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. This bill has several provisions to protect against those burdensome fines.*

*The question of whether these systems will help to reduce reckless driving and increase traffic safety is within the jurisdiction of the Transportation Committee.*

*For this Committee, the primary consideration is whether or not this bill contains adequate measures to protect people's privacy. The author has included a significant number of provisions to ensure that the privacy of drivers is protected. For example, the bill requires that photographic or administrative records generated by the speed safety system be confidential, and allows them only be used to administer the program, and not be disclosed to any other person, 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. In addition, in this Committee, the bill will be amended to limit the systems to taking photographic evidence, rather than video. This amendment will further increase privacy protections by insuring that the camera captures the image of the car violating the speed limits and not capture information on other cars or bystanders.*

*Substantially similar bills have been introduced four times over the last five years. Two of those bills were held in the Assembly Appropriations Committee, one died in the Assembly Transportation Committee, and one in the Senate Transportation Committee. Two of these bills passed this Committee before dying.*

*This bill is co-sponsored by the City of San Jose and the Glendale Police Department and is supported by a number of other organizations. The Western States Trucking Association, ACLU*

*California Action, Oakland Privacy, and the Electronic Frontier Foundation are all in opposition.*

*This bill previously passed the Transportation Committee on a 12-0-3 vote.*

**SUMMARY:** Establishes a five-year pilot program to give local transportation authorities in the cities of San Jose, Oakland, Los Angeles, Glendale, Long Beach, 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 in San Jose, Oakland, Los Angeles, Glendale, Long Beach, and San Francisco to enforce speed limits on the following streets:
  - a) The streets with the highest injuries and fatalities in the jurisdiction, referred to as a safety corridor.
  - b) Streets that a local authority has determined to have had a high number of incidents for motor vehicle speed contests or motor vehicle exhibitions of speed.
  - c) 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 of a vehicle license plate.
- 3) Defines “automated speed violation” as a violation of a speed law detected by a speed safety system.
- 4) Sets a maximum number of cameras each city may deploy depending on the city’s population:
  - d) A jurisdiction with a population over 3,000,000 may deploy no more than 125 cameras.
  - e) A jurisdiction with a population between 800,000 and 3,000,000 may deploy no more than 33 cameras.
  - f) A jurisdiction with a population of 300,000 up to 800,000 may deploy no more than 18 cameras.
  - g) A jurisdiction with a population of less than 300,000 may deploy no more than 9 cameras.
- 5) Specifies that speed safety systems are not to be operated on any California state route (including freeways and expressways), U. S. Highway, Interstate Highway, and 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.
- 6) 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:

- a) A reduction in the 85th percentile speed of vehicles compared to data collected before the system was in operation.
  - b) A 20% reduction in vehicles that exceed the posted speed limit by 10 miles per hour or more compared to data collected before the system was in operation.
  - c) A 20% reduction in the number of violators who received two or more violations at the location since the system became operational.
- 7) Provides that cameras may continue to operate if traffic calming measures are added to the street and authorizes 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.
- 8) 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.
- 9) Permits the enforcement of school zone speed limits two hours before school and two hours after school ends, if there is a flashing beacon indicating that the school zone speed limit is in effect. Authorizes the enforcement of the regular speed limit outside of those hours.
- 10) Prohibits the use of mobile systems for the first two years of the pilot unless they are kept at a fixed location.
- 11) Provides that speed safety systems must:
- a) 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.
  - b) 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.
  - c) 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 of peace officer and municipal training, and proof of successful completion to be retained by the pilot cities, as specified.
  - d) 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.

- e) Use fixed and mobile speed safety systems that provide real-time notification (like a camera flash) when violations are detected.
- 12) Requires the pilot cities to meet several consumer protection and privacy conditions:
- a) Conduct a public information campaign for 30 days before deployment.
  - b) Only issue warning notices during the first 60 days of enforcement.
  - c) Prior to implementation, adopt a Speed Safety System Use Policy and a Speed Safety System Impact Report and work collaboratively with relevant local stakeholder organization, including racial equity, privacy protection, and economic justice groups to develop these.
  - d) Include a clear photograph 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.
  - e) 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. Authorizes pilot cities to retain license plate data for 3 years in order to evaluate repeat offenses, but not location data.
  - f) 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 evidence of the alleged violation.
  - g) Prohibit the use of facial recognition software.
  - h) 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.
  - i) Meet vendor contracting requirements, as specified, including a requirement that any speed safety system data collected be confidential and not be shared, repurposed, or monetized for purposes other than speed safety system enforcement.
  - j) 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, that cannot be used to suspend or revoke a driver's license, and that cannot be used to assess a point against the driver.
  - k) Specifies that a person shall not be subject to both a notice of civil violation under this section and a notice to appear for the same violation.
  - l) Provides an appeals process, as specified, including a diversion program for indigent violators, as specified.

- m) 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).
  - n) Submit a Speed Safety System Report to the Legislature after the fifth and final year of the pilot.
  - o) 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 with household incomes less than 200% of the Federal Poverty Level.
- 12) Makes various findings and declarations regarding development of automated speed enforcement (ASE) programs.

**EXISTING LAW:**

- 1) Provides, pursuant to the California Constitution, that all people have inalienable rights, including the right to pursue and obtain privacy. (Cal. Const., art. I, § 1.)
- 2) 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 § 22362.)
- 3) 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 § 21455.5.)
- 4) 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 § 21455.5.)
- 5) Conditions the use of red light cameras on several requirements and procedures, including the following:
  - a) Only a governmental agency in cooperation with a law enforcement agency may operate a system.
  - b) Intersections equipped with the enforcement systems must be identified by signs visible to traffic in all directions or by signs posted at all major entrances to the participating city.
  - c) The city council or county board of supervisors must conduct a public hearing on the proposed use of an automated enforcement system.
  - d) Use of the system must be preceded by public notice by the local jurisdiction at least 30 days in advance, and only warning notices may be issued to violators during the first 30 days of the system's operation, after which citations may be issued.

- e) All photographic records are confidential and shall be made available only to the affected governmental agencies for enforcement purposes.
- f) Any driver alleged to be a violator of the red light provisions or the vehicle's registered owner is permitted to review the photographic evidence of the alleged violation.
- g) Citations must be delivered to the driver within 15 days of the alleged violations, with a certificate of mailing obtained as evidence of service, and must include specified information, including how, when, and where the citation may be challenged. (Veh. Code § 21455.5.)

**FISCAL EFFECT:** As currently in print this bill is keyed fiscal.

**COMMENTS:**

1) **Purpose.** This bill seeks to reduce traffic fatalities by establishing a five-year pilot program allowing the cities of Glendale, Long Beach, Los Angeles, Oakland, San Francisco, and San Jose to install automated 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 18 other states and the District of Columbia and authorize the use of speed safety systems.

3) **Background.** AB 2363 (Friedman, Chap. 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 its *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, Chap. 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 San Jose, writing on the need for this bill, states:

In 2022, San Jose experienced its deadliest year in traffic fatalities with 65 deaths on its streets, approximately half of whom were pedestrians or bicyclists. Between 2018 and 2022, 33% of traffic deaths in San Jose were attributed to speeding as a contributing factor. Speeding is a fundamental predictor of crash survival, as many streets with the highest incidence of fatal and severe injury crashes are also plagued by excessive speeding. Exacerbating this crisis is that many of these corridors are disproportionately impacting disadvantaged communities.

San Jose has made substantial investment towards infrastructure improvements such as quick-build and complete streets projects as well as enhanced education and outreach efforts to promote traffic safety. However, additional tools are needed to modify driver behavior and reduce this epidemic of speeding in San Jose.

Automated speed enforcement has demonstrated to be a proven safety technique that is currently being used in many communities across the country to deter speeding and improve safety for all road users, with results including:

- A reduction in drivers traveling more than 10 mph over the speed limit;
- A reduction in citations issued as drivers change their dangerous driving behaviors; and
- Most significantly, a reduction in crashes that result in serious injury or death.

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 the bill as it is currently in print, argues:

While WSTA appreciates your efforts to improve the safety of the motoring public, AB 645 is excessively overbroad for a “pilot program.” It authorizes an undefined number of speed cameras to enforce any speed law, either through a fixed or mobile radar or laser system or any other electronic device, within 6 California cities. Further, the bill allows speed cameras to be used 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,” however, problematically there is no standard for what might meet the threshold of “a high number of incidents,” thus this could potentially permit the cameras on any major street. Additionally, such cameras would only be required to cease operations within 18 months if one of the following thresholds has not been met: 1) a reduction in the 85th percentile speed of vehicles compared to data collected before the system was in operation; 2) a 20% reduction in

vehicles that exceed the posted speed limit by 10 mph or more compared to data collected before the system was in operation; or 3) a 20% reduction in the number of violators who received two or more violations at the location since the system became operational. 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.

Further, the proliferation of speed cameras throughout the state, as authorized by AB 645, will unquestionably lead to severe hardship for those of lesser means.

The opposition raises valid concerns of “severe hardship for those of lesser means.” It is important to note that one of the intentions of this bill is to *reduce* that hardship, not increase it. 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.

This bill has 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 if one is stopped by a law enforcement officer. 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.

This bill provides 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 which DMV uses 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.

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.

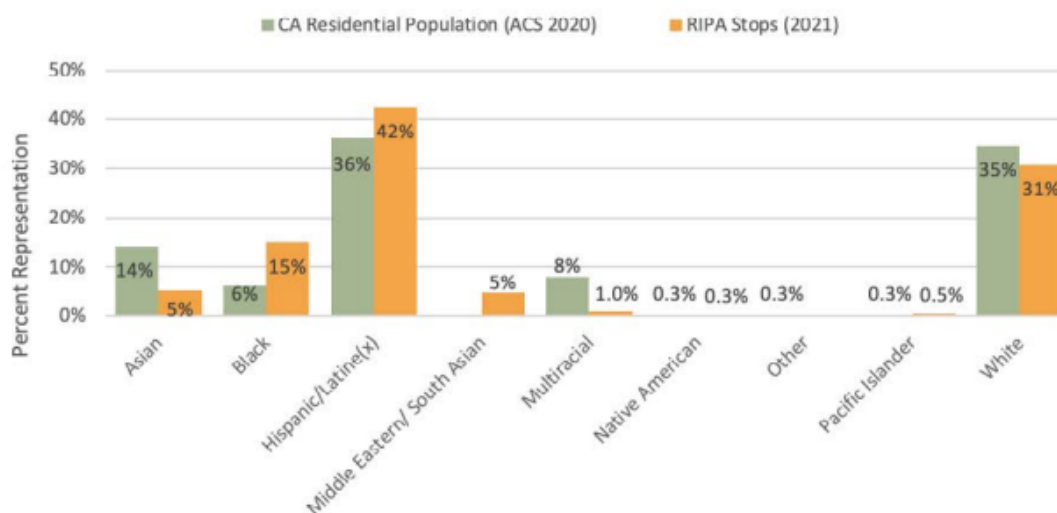
In addition, speed cameras have often been viewed as a potential solution to discriminatory traffic stops. Because these violations will be captured by the cameras, rather than police officers, depending on the placement of the cameras, it may ultimately reduce the current disparities.

The Racial and Identity Profiling Act of 2015 established the Racial and Identity Profiling Advisory (RIPA) board within the DOJ (AB 953 (Weber), Chap. 466, Stats. 2015) in an effort to eliminate racial and identity profiling and to improve diversity and racial and identity sensitivity in law enforcement. The board is required to investigate and analyze state and local law enforcement agencies’ racial and identity profiling policies and practices across geographic areas in California and to annually publicize its findings and policy recommendations. In their 2023



report, they include the following information that demonstrates the on-going racial disparity in traffic stops in 2021:

- To provide context for the racial distribution of stops by the reporting agencies, the Board compared the stop data to residential population data from the American Community Survey that was weighted to correspond with the jurisdictions of the reporting agencies. Black and Hispanic/Latine(x) individuals represented a higher proportion of stopped individuals than their relative proportion of the weighted California residential population.



(RIPA Annual Report 2023, Racial and Identity Profiling Advisory (RIPA) board (Jan. 1, 2023) available at <https://oag.ca.gov/ab953/board/reports#current>.)

However, not to dismiss the very real concerns of the WSTA, the placement of cameras in cities will need to be carefully considered so that they are not all clustered in communities that are populated primarily by people of color or in communities with lower household incomes who then could be disproportionately impacted by the fines. On the other hand, it is also important to make sure that the cameras are not disproportionately placed in predominantly white, affluent communities, thus only reducing incidents of dangerous driving in those communities. National data shows that some of the most dangerous roads in California and in the United States are in communities where the residents are disproportionately people of color. As a result of these dangerous roads, people of color are disproportionately effected by traffic collisions. According to the United States Department of Transportation’s National Roadway Safety Strategy (NRSS), Black, Latine(x) and Native American 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. (Information on the NRSS is available at <https://www.transportation.gov/NRSS>.)

In an attempt to address equity concerns regarding the enforcement of traffic laws, this bill requires organizations that represent minority communities be involved in decisions related to the placement of these cameras.

4) **Privacy protections in this bill.** The author has included a number of provisions in this bill to ensure that the privacy of drivers is protected in the cities authorized to use speed safety systems. For example, the bill requires that photographic or administrative records generated by the speed safety system be confidential, and only used to administer a program. The bill prohibits the

information from being disclosed to any other person, 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.

5) **Committee amendments.** The amendments being taken in this committee are intended to accomplish three things:

A. The first amendment is intended to further protect the privacy of individuals by limiting the ability of the cameras to passively capture video footage of cars that are not speeding or people walking or bicycling along the street. To accomplish that added layer of privacy protection, the traffic cameras will only take photographs, rather than video footage.

B. The second amendments remove the blanks in the bill related to the maximum number of cameras. Under these amendments, the limits are as follows:

1. A jurisdiction with a population over 3,000,000 may deploy no more than 125 cameras.

2. A jurisdiction with a population between 800,000 and 3,000,000 may deploy no more than 33 cameras.

3. A jurisdiction with a population of 300,000 up to 800,000 may deploy no more than 18 cameras.

4. A jurisdiction with a population of less than 300,000 may deploy no more than 9 cameras.

C. Finally, in order to further the consumer protection provisions in this bill, the last amendment clarifies that a person cannot be subject to a fine from the ASE and a traffic citation for the same incident.

6) **Related legislation.** AB 2336 (Friedman, 2022) was substantially similar to this bill. That bill was held on suspense in the Assembly Appropriations Committee.

AB 43 (Friedman, Chap. 690, Stats. 2021) granted 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) would have authorized the use of ASE cameras in school zones. That bill died in the Senate Transportation Committee.

AB 2363 (Friedman, Chap. 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.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

City of San Jose (co-sponsor)  
Glendale Police Department (co-sponsor)  
Streets are For Everyone (SAFE) (co-sponsor)  
Streets for All (co-sponsor)  
Walk San Francisco (co-sponsor)  
Active San Gabriel Valley  
Alameda-contra Costa Transit District (ac Transit)  
Association of Pedestrian and Bicycle Professionals (APBP)  
Bahati Foundation  
Barbary Coast Neighborhood Association  
Bay Area Council  
Berkeley Path Wanderers Association  
BikeLA  
CalBike  
City of Long Beach  
City of San Jose, Councilmember David Cohen,  
City of San Jose, Councilmember Dev Davis  
City of San Jose, Councilmember Pam Foley  
City of West Hollywood  
Conor Lynch Foundation  
Culver City Democratic Club  
Faith for Safer Streets  
Kidsafe Sf  
Livable Cities  
Livable Communities Initiative  
Los Angeles County Bicycle Coalition  
Los Angeles; City of  
Lyft, INC.  
Marin County Bicycle Coalition  
Mayor of City & County of San Francisco London Breed  
Move Santa Barbara County  
Norwalk Unides  
San Diego County Bicycle Coalition  
San Francisco Bay Area Families for Safe Streets  
San Francisco Bicycle Coalition  
Santa Monica Safe Streets Alliance

Santa Monica Spoke  
Silicon Valley Bicycle Coalition  
So Cal Cycling  
Socal Families for Safe Streets  
Spur  
Stop4aidan  
Street Racing Kills  
Streets for Everyone  
West Hollywood Bicycle Coalition

**Opposition**

ACLU California Action  
Anti Police-Terror Project  
Electronic Frontier Foundation  
Oakland Privacy  
Safer Streets LA  
Western States Trucking Association

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