



**AB-342 Vehicles: automated speed enforcement: five-year pilot program.** (2017-2018)

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AMENDED IN ASSEMBLY MARCH 21, 2017

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

**ASSEMBLY BILL**

**No. 342**

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

**February 07, 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 amended, 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 Local Program: no

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

**SECTION 1.** The Legislature finds and declares all of the following:

- (a) Speed is a major factor in traffic collisions that result in fatalities or injuries.
- (b) Law enforcement and other local agencies employ a variety of methods to reduce speeding, including traffic engineering, education, and enforcement.
- (c) Traffic speed enforcement is critical to the efforts of municipalities in California to reduce factors that contribute to traffic collisions that result in fatalities or injuries.
- (d) Additional tools, including automated speed enforcement, are available to assist cities in addressing excessive speeding and speed-related crashes.
- (e) Automated speed enforcement (ASE) offers a high rate of detection, and in conjunction with education, traffic engineering, and law enforcement measures, it can significantly improve traffic safety and prevent traffic related fatalities and injuries.
- (f) Multiple ASE programs implemented in other states and cities outside of California have proven successful in reducing speeding and addressing traffic safety concerns.
- (g) In the City of San Jose and the City and County of San Francisco, fatal and injury collisions are often concentrated on specific corridors of the street network where drivers travel at excessive speeds. ASE can be deployed to detect and deter excessive speeding on streets that have a documented speeding problem as demonstrated by an aggregation of traffic collisions caused by excessive speed.

(h) Enforcing speed limits using ASE systems on streets where speeding drivers negatively impact traffic safety is a reliable and cost-effective means to prevent further fatalities and injuries and would be in the public interest. On a pilot basis, this act authorizes the City of San Jose and the City and County of San Francisco to implement ASE programs for a five-year period, which will commence the day that the ASE system has been activated but not later than January 1, 2019. The City of San Jose and the City and County of San Francisco would have the authority to use ASE on a street or portions of a street that have a documented speeding problem as demonstrated through a high incidence of speed-related traffic collisions pursuant to the methodology described in this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Registration fees.

(2) Transfer fees.

(3) License fees.

(4) Use taxes.

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

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

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

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

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

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

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

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

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

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

(h) The Franchise Tax Board may enter into any agreements or contracts necessary to implement and administer the provisions of this section. The Franchise Tax Board in administering this section may delegate collection activities to the department. Any contracts may provide for payment of the contract on the basis of a percentage of the amount of revenue realized as a result of the contractor's services under that contract.

However, the Franchise Tax Board, in administering this part, may not enter into contracts with private collection agencies as authorized under Section 19377.

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

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

**SEC. 5.** Section 10878 is added to the Revenue and Taxation Code, to read:

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

(1) Registration fees.

(2) Transfer fees.

(3) License fees.

(4) Use taxes.

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

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

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

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

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

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

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

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

(g) Any standard, criteria, procedure, determination, rule, notice, or guideline, that is not subject to the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government

Code pursuant to subdivision (f), shall be approved by the Franchise Tax Board, itself.

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

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

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

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

(1) Registration fees.

(2) Transfer fees.

(3) License fees.

(4) Use taxes.

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

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

(7) Penalties for offenses detected by an automated speed enforcement system operated by the City of San Jose or the City and County of 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.

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

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

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

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

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

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

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

(1) Registration fees.

(2) Transfer fees.

(3) License fees.

(4) Use taxes.

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

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

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

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

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

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

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

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

**Article 3. Automated Speed Enforcement System**

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

(1) "Automated speed enforcement system" or "ASE system" means 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.

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

(3) "City of San Jose," "City and County of San Francisco," or "municipality" means any department, bureau, division, or unit of the City of San Jose or the City and County of San Francisco, respectively.

(b) The City of San Jose and the City and County of San Francisco may establish a program utilizing an ASE system for speed limit enforcement on streets or portions of streets with speed limits that are 50 miles per hour or less and that have ~~had three or more speed-related fatal, severe, or other visible injury collisions occur within a one-half mile distance of each other, over a five-year period~~ *a documented incidence of collisions resulting in fatalities or injuries as evidenced by either a three-year fatality and injury collision rate, or a three-year fatality rate, that is higher than the three-year collision and fatality rates published by the Department of Transportation for comparable roadways*, based on the most recent available local or state collision ~~data, and the primary or secondary collision factor identified on the California Highway Patrol form 555 is an unsafe speed violation, and fatality data.~~

(c) ASE is not authorized on freeways.

(d) If a school zone is located on a street or portion of a street *that is eligible for an ASE system pursuant to subdivision (b)*, and the posted speed limit is 30 miles per hour or higher when children are not present, the City of San Jose and the City and County of San Francisco may use automated speed enforcement two hours before the regular school session begins and two hours after regular school session concludes.

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

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

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

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

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

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

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

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

(ii) The enforcement of traffic and speeding laws in a course approved and certified by the Commission on Peace Officer Standards and Training or an operator course meeting equivalent standards.

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

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

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

*(8) Utilizes fixed and mobile ASE systems that provide real-time notification when violations are detected.*

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

(1) Administer a public information campaign for at least 30 calendar days prior to the initial commencement of the program, which shall include public announcements in major media outlets and press releases. *The public information campaign shall include information on when ASE systems will begin detecting violations, the streets, or portions of streets, where fixed or mobile ASE systems will be utilized, and the city's Internet Web site, where additional information about the program can be obtained.* Notwithstanding that additional fixed or mobile ASE systems may be added to the program, no further public announcement by the municipality shall be required.

(2) Issue warning notices rather than notices of violation for violations detected by the ASE systems during the first 90 calendar days of enforcement under the program. ~~Notwithstanding that If additional fixed or mobile ASE systems may be added to the program, are utilized on additional streets after the initial program implementation,~~ the municipality shall ~~not be required to~~ issue ~~further~~ warning ~~notices.~~ *notices rather than notices of violation for violations detected by the new ASE systems during the first 30 calendar days of enforcement for the additional streets added to the program.*

(g) The local governing body shall adopt an ASE System Use Policy prior to implementing an ASE program. The ASE System Use Policy shall include the specific purpose for the ASE system, the uses that are authorized, the rules and processes required prior to that use, and the uses that are prohibited. The policy shall include the data



or information that can be collected by the ASE system and the individuals who can access or use the collected information, and the rules and processes related to the access or use of the information. The policy shall also include provisions for protecting data from unauthorized access, data retention, public access, third-party data sharing, training, auditing, and oversight to ensure compliance with the ASE System Use Policy. *The ASE System Use Policy shall be made available for public review at least 30 calendar days prior to adoption by the local governing body.*

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

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

(2) Proposed purpose of the ASE system.

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

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

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

*(6) The ASE System Impact Report shall be made available for public review at least 30 calendar days prior to adoption by the governing body.*

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

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

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

(j) Notices of violation issued pursuant to this section shall include a clear photograph, video recording, or other visual image of the license plate *and rear* of the vehicle only, the Vehicle Code violation, the camera location, and the date and time when the violation occurred. *Notices of violation shall exclude images of the rear window area of the vehicle.*

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

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

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

(3) Except for court records described in Section 68152 of the Government Code, or as provided in paragraph (4), the confidential records and evidence described in paragraphs (1) and (2) may be retained for up to 60 days after final disposition of the notice of violation. *The municipality may adopt a retention period of less than 60 days in the ASE System Use Policy.* Administrative records described in paragraph (1) may be retained for up to 120 days after final disposition of the notice of violation. Notwithstanding any other law, the confidential records and evidence shall be destroyed in a manner that maintains the confidentiality of any person included in the record or evidence.

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

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

(n) A contract between the municipality and a manufacturer or supplier of ASE systems shall allow the local authority to purchase materials, lease equipment, and contract for processing services from the manufacturer or supplier based on the services rendered on a monthly schedule or another schedule agreed upon by the municipality and contractor. The contract shall not include provisions for payment or compensation based on the number of notices of violation issued by a trained peace officer or other designated municipal employee, or as a percentage of revenue generated, from the use of the ASE system. *The contract shall include a provision that all data collected from the ASE systems is confidential, and shall prohibit the manufacturer or supplier of ASE systems from sharing, repurposing, or monetizing collected data for purposes other than those authorized in this article.* The municipality shall oversee and maintain control over all enforcement activities, including the determination of when a notice of violation should be issued.

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) A notice to the registered owner that unless the registered owner pays the civil penalty or contests the notice within 30 calendar days after the mailing of the notice of violation, or completes and files an affidavit of nonliability, the renewal of the vehicle registration shall be contingent upon compliance with the notice of violation. If the registered owner, by appearance or by mail, makes payment to the processing agency within 30

calendar days after the mailing of the notice of violation, the civil penalty shall consist solely of the amount of the original civil penalty.

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

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

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

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

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

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

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

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

(4) (A) The issuing agency's governing body or chief executive officer shall appoint or contract with qualified independent examiners or administrative hearing providers that employ qualified independent examiners to conduct the administrative hearings. Examiners shall demonstrate the qualifications, training, and objectivity necessary to conduct a fair and impartial review. The examiner shall be separate and independent from the notice of violation collection or processing function. An examiner's continued employment, performance evaluation, compensation, and benefits shall not, directly or indirectly, be linked to the amount of civil penalties collected by the examiner or the number or percentage of violations upheld by the examiner.

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

(I) An accredited college or university.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(c) Notwithstanding subdivisions (a) and (b), the City of San Jose and the City and County of San Francisco shall reduce the applicable fines and penalties for individuals with household incomes less than 125 percent of the Federal Poverty Level by 80 percent.*

*(d) The processing agency for the City of San Jose and the City and County of San Francisco shall not file or electronically transmit to the department an itemization of unpaid civil penalties, including administrative fees, for citations issued pursuant to this article when the owner is participating in a diversion program, payment plan, or both, as outlined in subdivisions (a) and (b).*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Legislature an evaluation of the ASE system in their respective jurisdictions to determine the system's impact on highway safety and the system's economic impact on the communities where the system is utilized. The report shall be made available on the Internet Web sites of the two jurisdictions and shall include all of the following information:

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

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

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

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

*(e) The costs associated with implementation and operation of the ASE systems, and revenues collected by each jurisdiction.*

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

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

**SEC. 10.** The Legislature finds and declares that Section 8 of this act, which adds Article 3 (commencing with Section 22425) to Chapter 7 of Division 11 of the Vehicle Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the personally identifiable information of California drivers, it is necessary that this act limit the public's right of access to that information.