California Legislature

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING

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CHAIRMAN

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Tuesday, April 4, 2017
1:30 p.m. — John L. Burton Hearing Room (4203)

AGENDA

1.	S.B. 65	Hill	Vehicles: alcohol and marijuana: penalties.
2.	S.B. 158	Monning	Commercial driver's license: education.
3.	S.B. 167	Skinner	Housing Accountability Act.
4.	S.B. 179	Atkins	Gender identity: female, male, or nonbinary.
5.	S.B. 185	Hertzberg	Vehicles: violations.
6.	S.B. 347	Jackson	State Remote Piloted Aircraft Act.
7.	S.B. 362	Galgiani	Department of Motor Vehicles: records: confidentiality.
8.	S.B. 414	Vidak	Transportation bonds: highway, street, and road projects.
9.	S.B. 415	Vidak	High-speed rail: rights-of-way.
10.	S.B. 498	Skinner	Vehicle fleets: zero-emission vehicles.
11.	S.B. 540	Roth	Workforce Housing Opportunity Zone.
12.	S.B. 587	Atkins	Emergency vehicles: blue warning lights.
13.	S.B. 699	Galgiani	Vehicles: removal and impoundment.

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	SB 65	**Hearing Date:**	4/04/2017
Author:	Hill		
Version:	3/27/2017 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Mikel Shybut		

SUBJECT: Vehicles: alcohol and marijuana: penalties

DIGEST: This bill establishes a zero tolerance marijuana policy for drivers under 21 and prohibits the consumption of marijuana by the driver or passenger of a motor vehicle, making violations punishable as an infraction or misdemeanor with imprisonment and a state-licensed driving-under-the-influence program.

ANALYSIS:

Existing law:

1) Prohibits drivers and passengers of motor vehicles from consuming any alcoholic beverage or possessing any open container of alcohol while on a highway.

2) Allows police officers to request preliminary alcohol screening tests (breathalyzers) of drivers under 21 suspected of having a blood alcohol concentration (BAC) equal to or greater than 0.01%, or chemical lab screening of blood, breath, or urine if a screening device is not available.

3) Punishes drivers under 21 who have a BAC of 0.01%, or who refuse to take any screening test, with a one-year license suspension and a $100 fee upon reissuance.

4) Prohibits the operation of a vehicle while under the influence of any alcoholic beverage (0.08% or higher blood alcohol content), drug, or combination, treating violations as misdemeanors.

5) Allows persons 21 or over to possess not more than 28.5 grams of marijuana and allows those individuals to smoke or ingest marijuana.

6) Prohibits drivers and passengers of motor vehicles from possessing an open container or package of marijuana or marijuana products, treating violations as infractions punishable by up to a $250 fine.

7) Punishes possession of not more than one ounce of marijuana by those under 18 as an infraction, requiring four hours of drug education and up to 10 hours of community service for first-time offenders.

8) Punishes possession of not more than one ounce of marijuana by 18 to 21 year-olds as an infraction with a $100 fine.

9) Allows for the use of medical marijuana by qualified patients under the Compassionate Use Act of 1996 and those with a medical identification card issued by the Department of Health Services, but does not authorize smoking in a motor vehicle.

This bill:

1) Prohibits drivers and passengers of motor vehicles from smoking or ingesting marijuana or any marijuana product on a highway.

2) Provides that the consumption of marijuana or the consumption of alcohol in a motor vehicle by the driver or a passenger may be treated as an infraction or misdemeanor.

3) Provides that misdemeanor charges may lead to imprisonment on days other than days of employment for the defendant and that, in addition, a court may order the defendant to complete a state-licensed driving-under-the-influence program.

4) Allows police officers to request a chemical field test (oral swab for saliva) of drivers under the age of 21 suspected of having any level of delta-9-tetrahydrocannabinol (THC) in their body or a chemical lab screening of blood, breath, or urine if a field device is not available.

5) Punishes drivers under 21 who have any detectable level of THC in their body or who refuse to take any screening test with a one-year license suspension or revocation.

6) Excludes persons under 21 who have authority to use medical marijuana from the zero tolerance THC policy.

COMMENTS:

1) *Purpose.* According to the author, the purpose of this bill is to bring laws regulating marijuana use while driving in line with current laws regulating alcohol use while driving. This bill does so by prohibiting marijuana consumption while driving or riding as a passenger in a motor vehicle, consistent with current law prohibiting the consumption of alcohol while driving or riding in a motor vehicle. Further, the law extends the strict alcohol restrictions on drivers under 21 to marijuana, resulting in a year license suspension or revocation if any level of delta-9-tetrahydrocannabinol (THC) is detected in the driver. The author states that this bill is necessary to help address the increased traffic fatalities associated with drugged driving. According to the 2013-14 National Highway Traffic Safety Administration's (NHTSA's) National Roadside Survey, 12.6% of weekend, nighttime drivers tested positive for THC, which is up from 8.6% in 2007.

2) *Prop. 64: Plugging a gap.* The passage of Proposition 64 in 2016 legalized recreational marijuana possession and use, with certain restrictions, for people 21 and older. The proposition language specifically declares that it should not be interpreted to permit possession of an open container of marijuana while driving or, similarly to California's medical marijuana laws, to permit smoking or ingesting marijuana while driving or riding as a passenger in any transportation vehicle. However, the proposition only specifies a penalty for the open container provision, but does not provide a penalty for smoking or ingesting marijuana while driving or riding as a passenger. This bill fills that gap by treating consumption violations by drivers and passengers as infractions or misdemeanors, at the discretion of the court.

3) *Crash risks of marijuana vs. alcohol.* A recent comprehensive review of studies on the health effects of cannabis by the National Academies of Sciences, Engineering, and Mathematics found that, when controlling for confounding factors like alcohol, driving under the influence of cannabis was associated with a relatively low 20% - 30% (1.2 – 1.3 times) increased likelihood of a motor vehicle crash. A 2015 NHTSA study of police-reported crashes found that THC-positive drivers, when adjusted for the effects of other risk factors like alcohol, age, gender, and race, were not significantly more likely to be in a crash. For comparison to alcohol, when adjusted for age and gender, drivers with a 0.03 breath alcohol content (BrAC) level were 20% (1.2 times) more likely to be in a crash, drivers at 0.05 BrAC are about twice as likely, and drivers at the legal alcohol limit of 0.08 BrAC are about 4 times as likely.

4) *Zero tolerance for drivers under 21.* This bill suspends or revokes the license of any driver under the age of 21 found to have any detectable amount of THC in their body while driving for one year and up to three years depending on past offenses, regardless of impairment. It excludes patients with a valid medical license. This could include THC from recent indirect exposure. In such a case, where a driver is exposed to secondhand smoke, presumably by a legal consumer, the committee may wish to consider whether they should be subject to a zero tolerance policy. Further, unlike alcohol, oral fluid screening devices for THC such as the Dräger DrugTest 5000 can yield positive results up to 24 – 44 hours after consumption. The committee may wish to consider whether a driver under 21 should lose their license for a year if they consumed marijuana the day before.

5) *Sensitivity of roadside devices.* Current roadside devices for detecting THC, such as the Dräger DrugTest 5000, allow for screening THC at or above a particular cutoff point in a binary, non-quantitative manner from oral fluids or cheek swab. According to independent testing, attempts at detecting amounts below that level resulted in a relatively high number of false negatives, where the device's low sensitivity did not detect THC but a lab analysis later confirmed the presence of THC. The bill allows for the use of a chemical lab test if a field test is not available. If an officer has reason to suspect the driver consumed marijuana, but the field test shows negative, they may order a chemical analysis anyway as they would if they didn't have the roadside device in the first place. The committee may wish to consider whether a roadside device is sensitive enough to warrant using, especially if establishing a zero tolerance law.

6) *Infraction or misdemeanor.* Current law already prohibits operating a vehicle under the influence of any drug, marijuana included. Impairment can be determined by field sobriety tests followed by chemical lab tests. This bill prohibits the act of consuming marijuana in a motor vehicle by a driver or passenger, making it punishable as an infraction or misdemeanor and extends this punishment to alcohol. As written, a driver or passenger could go to jail for smoking marijuana or drinking alcohol in a motor vehicle, regardless of blood alcohol content or impairment. **The committee may wish to consider which scenarios drivers or passengers would be charged with a misdemeanor over an infraction and whether those scenarios are already covered by current law regarding impairment.**

7) *Double Referral.* This bill was referred to this committee and the Senate Public Safety Committee.

RELATED LEGISLATION:

SB 698 (Hill, 2017) — would make it illegal to have a certain combination of alcohol and controlled substances while driving a vehicle.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, March 29th, 2017.)

SUPPORT:

Alcohol Justice
Association of California Insurance Companies (ACIC)
California Alcohol Policy Alliance
California Association of Driving Under the Influence (DUI) Treatment Programs (CADTP)
California District Attorneys Association
California Medical Association
California Police Chiefs Association
Crime Victims United of California (CVUC)
The Foundation for Advancing Alcohol Responsibility
Peace Officers Research Association of California (PORAC)
The Town of Los Gatos

OPPOSITION:

California Attorneys for Criminal Justice
California Chapter of the National Organization for the Reform of Marijuana Laws

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SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	SB 158	**Hearing Date:**	4/4/2017
Author:	Monning		
Version:	1/19/2017		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Commercial driver's license: education

DIGEST: This bill requires an individual to provide proof of successful completion of a specified course of instruction in order to obtain a commercial driver's license.

ANALYSIS:

Existing federal regulations:

1) Establish new minimum training standards for individuals applying for their commercial driver's license for the first time; applying for an upgrade of their commercial driver's license; or applying for a hazardous materials, passenger, or school bus endorsement for the first time.

2) Require applicants to complete a prescribed program of instruction provided by an entity that is listed on the Federal Motor Carrier Safety Administration's (FMCSA) Training Provider Registry.

3) Requires that in order to be eligible for listing on the Training Provider Registry, an entity must:

    a) Utilize a curriculum, facilities, vehicles, and driver training instructors that meet specified criteria.
    b) Be licensed, certified, registered, or authorized to provide training in accordance with applicable laws and regulations of any state where in-person training is conducted, unless instruction is only offered online.

4) Authorizes FMCSA to audit or investigate the training provider's operations to ensure it meets the criteria in (3).

5) Requires the entity to register each of its campuses with the Training Provider Registry and to attest that each meets all applicable requirements.

Existing state law:

1) Prohibits an individual from operating a commercial motor vehicle unless he or she has in his or her immediate possession a valid commercial driver's license of the appropriate class.

2) Requires a commercial driver's license for a variety of trucks weighing more than 26,000 lbs., passenger buses, and vehicles carrying hazardous materials.

3) Requires an individual, in order to obtain a commercial driver's license, to successfully complete both a written and driving test that comply with the minimum federal standards to operate a commercial motor vehicle.

4) Authorizes the state Department of Motor Vehicles (DMV) to waive the driving test for an individual with military commercial motor vehicle experience if the individual is currently licensed with the U.S. Armed Forces and his or her driving record and experience meet the minimum federal standards.

5) Requires DMV to prescribe and conduct commercial written and driving tests, but authorizes DMV to enter into agreements with third-party testers to administer the driving test (the Employer Testing Program).

6) Exempts members and reservists of the U.S. Armed Forces, National Guard, and U.S. Coast Guard from all commercial driver's license requirements and sanctions.

This bill:

1) Provides that, upon adoption of specified regulations by the US Department of Transportation (US DOT), an individual must provide proof of successful completion of a course of instruction from a commercial motor vehicle driver training institution, or an employer program that is listed on the FMCSA's Training Provider Registry, in order to obtain a commercial driver's license.

2) Requires DMV, no later than February 7, 2020, to adopt regulations related to entry-level driving training requirements for commercial motor vehicle drivers in compliance with specified federal regulations.

3) Requires the DMV-approved course of instruction for entry-level drivers to include, but not be limited to:

   a) A minimum of 30 hours of behind-the-wheel training, including at least 10 hours on an off-highway facility and 10 hours on a public road, for an applicant for a Class A commercial driver's license.
   b) A minimum of 15 hours of behind-the-wheel training, including at least 7 hours on a public road, for an applicant for a Class A commercial driver's license.
   c) For both Class A and Class B applicants, every 50 minutes of driving is deemed to be one hour of training.

COMMENTS:

1) *Purpose.* The author states that when individuals are not adequately trained in in driving a large truck or other commercial vehicle, they can pose a serious danger on the road. California Highway Patrol data show that more than 10,000 at-fault commercial vehicle accidents were reported in 2014, of which 2,432 resulted in injury and 68 were fatal. One of these fatal accidents occurred on Highway 17 when a truck driver lost control and crashed into 10 cars, injuring seven people and killing 25-year-old Daniel McGuire of Santa Cruz. The truck driver's lack of adequate training and experience was a major factor in the crash.

   According to the author, extensive regulatory review by FMCSA shows the value of adequate training and behind-the-wheel experience on road safety. But at the last step of the federal rulemaking process on the new federal regulation relating to commercial driver's licenses, the mandatory minimum behind-the-wheel (BTW) requirements were removed, leaving it to the discretion of the trainer to evaluate driver proficiency. This approach is inadequate because trainers — either employers or a paid training institution — may have an incentive to expedite the training course before the driver has the road experience to gain proficiency. BTW training is already an industry best practice standard. This bill requires a mandatory minimum of BTW hours to ensure commercial vehicle drivers acquire skills necessary to safely operate commercial vehicles.

2) *New federal regulations.* Until this year, federal regulations required an individual to pass a written test and a driving test in order to obtain a commercial driver's license, but not to take a course of instruction prior to taking these tests. The federal Moving Ahead for Progress in the 21st Century Act, commonly known as MAP-21, signed by President Obama in 2012,

directed the FMCSA to establish new regulations for minimum training requirements for individuals applying for a commercial driver's license. The FMCSA began holding public meetings in March 2015, published a proposed regulation in March 2016, and published the final rule in December 2016. The new regulation, which took effect on February 6, 2017 (with compliance required by February 7, 2020), establishes new requirements for obtaining a commercial driver's license. Specifically, the new regulations require an individual who is applying for a Class A or Class B commercial driver's license to receive specified training. The new regulations generally exempt military drivers, farmers, and firefighters, consistent with existing prior federal regulations.

3) *Current state requirements*. Existing state law, in line with prior federal regulations, requires an individual to pass a written test and a driving test in order to obtain a commercial driver's license, but not to take a course of instruction prior to taking these tests. The California Commercial Driver handbook published by DMV states that "This handbook is not substitute for a truck driver training class or program. Formal training is the most reliable way to learn the many special skills required for safely driving a large commercial vehicle and becoming a professional driver in the trucking industry."

4) *The new wrinkle: BTW training.* The primary difference between this bill and the new federal regulations is this bill's requirement for a commercial driver's license applicant to complete a specified number of hours of BTW training. Although the new federal regulations provide that "The training provider must not issue the training certificate unless the driver-trainee demonstrates proficiency in performing all the BTW skills," the regulations do not require a training courses to include a BTW component.

   The original proposed regulations included a minimum of 30 hours of BTW training for Class A trainees and 15 hours for Class B trainees. According to the FMCSA, "the issue of a 'performance-based' approach to BTW training versus an approach requiring that a minimum number of hours be spent on BTW training was the most thoroughly debated issue" during the rulemaking process. Ultimately, however, the FMCSA was "not able to obtain sufficient quantitative data linking mandatory minimum BTW training hours with positive safety outcomes, such as crash reduction..." The FMCSA states, however, that it expects driver trainees to spend approximately 30 and 15 hours BTW demonstrating the required Class A and Class B curricula, based on the experience of the driver training organizations it consulted with during the rulemaking process. The federal regulations do not prohibit states from imposing a BTW requirement.

The final rule was issued on December 8, 2016. On December 21, 2016, the Advocates for Highway and Auto Safety, Owner-Operator Independent Drivers Association, Truck Safety Coalition, and Citizens for Reliable and Safe Highways submitted a petition for reconsideration on removal of the minimum BTW requirement. The petition states that the BTW requirement was included in the original proposed rule because the advisory committee established by the FMCSA reached a consensus that a BTW requirement was an essential piece of the core curricula. The petition also notes that the original MAP-21 legislation required that training include BTW instruction.

5) *Trainers now need federal approval.* SB 344 (Monning, 2015) would have required an individual to successfully complete a DMV-approved course of instruction in order to obtain a commercial driver's license (see "Related Legislation" below). SB 344 was not passed by the Legislature due to the pending federal regulations. A major issue of debate related to SB 344 was whether courses conducted by private truck driver training schools and firms that participate in the Employer Testing Program should be exempted from the bill. SB 344 did not exempt private training schools due to concerns about fraudulent schools, but did exempt individuals who earned a valid certificate of driving skill issued through ETP. ETP allows firms that employ commercial drivers to administer driving tests for their employees (though written tests must still be taken through DMV). In order to participate, employers must obtain DMV approval for examiners and training.

   The new federal regulations require all training providers to register with the FMCSA's Training Provider Registry. This effectively renders moot the debate over whether private trucking schools and ETP courses should be included, since all commercial drivers' license applicants must now take a course from an entity that is registered with the FMCSA.

6) *What about commercial drivers from other states?* The FMCSA notes that the new regulations do not prohibit driver trainees from obtaining training outside their state of domicile. Similarly, commercial drivers may get licensed in states that do not have a BTW requirements, and then drive in California. The author is continuing to work with DMV on these and other implementation issues.

RELATED LEGISLATION:

AB 301 (Rodriguez, 2017) — requires DMV, by July 1, 2018, to accept a certificate of driving skill issued by specified entities including a licensed truck

driving school, an accredited public or private postsecondary institution, and a municipality, in lieu of a driving test, on Class A or Class B applications, if the applicant has first qualified for a Class C license and has met other examination requirements for the license for which he or she is applying. Requires DMV to adopt emergency regulations to implement this bill. Also requires DMV to submit a report to the Legislature by January 1, 2023, comparing the relative safety of drivers who obtained their Class A or Class B endorsement using a third party tester as compared to those who took a driving test administered by DMV. *This bill is scheduled to be heard in the Assembly Transportation Committee on April 3rd.*

SB 344 (Monning, 2015) — would have required an individual to successfully complete a DMV-approved course of instruction in order to obtain a commercial driver's license. *This bill died on the Assembly Appropriations Committee suspense file.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, March 29, 2017.)

SUPPORT:

City of Capitola
Consumer Attorneys of California
County of Santa Cruz
Owner-Operator Independent Drivers Association
Transportation Agency for Monterey County
Truck Safety Coalition
3,044 individuals

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	SB 167	**Hearing Date:**	4/4/2017
Author:	Skinner		
Version:	3/29/2017 Amended		
Urgency:	No	**Fiscal:**	No
Consultant:	Alison Hughes		

SUBJECT: Housing Accountability Act

DIGEST: This bill makes several changes to the Housing Accountability Act (HAA).

ANALYSIS:

Existing law, under the Housing Accountability Act (HAA):

1) Requires cities and counties, under existing planning and zoning law, to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, objectives, financial resources and scheduled programs for the preservation, improvement, and development of housing.

2) Requires the local jurisdiction, to the extent that it does not have adequate sites within its existing inventory of residentially zoned land, to adopt a program to rezone land at appropriate densities to accommodate the community's housing need for all income groups.

3) Prohibits a local agency from disapproving a housing project containing units affordable to very low-, low- or moderate income renters, or conditioning the approval in a manner that renders the housing project infeasible, unless it makes make one of the following findings, based upon substantial evidence in the record:

   a) The jurisdiction has adopted an updated housing element in substantial compliance with the law, and the jurisdiction met its share of the regional housing need for that income category.

b) The project will have a specific, adverse impact on the public health or safety and there is no feasible method to mitigate or avoid the impact without rendering the housing development unaffordable to very low-, low- or moderate income renters.

c) The denial or imposition of conditions is required to comply with state or federal law.

d) The project is located on agricultural or resource preservation land that does not have adequate water or wastewater facilities.

e) The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.

4) Provides that if a locality denies approval or imposes restrictions, design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete, that have a substantial adverse effect on the viability or affordability of housing development for a very low-, low- or moderate-income households, and the denial of that development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the locality to show that its decision is consistent with its findings disapproving the development.

5) "Disapprove the housing development project" includes any instance in which the local jurisdiction does either of the following:

a) Votes on a proposed housing development project application and the application is disapproved.
b) Fails to comply with time periods for approving or disapproving of projects under existing law.

6) Defines "housing development project" as any of the following:

a) Residential units only.
b) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of the buildings that are two or more stories.
c) Transitional or supportive housing.

7) "Housing for very low-, low-, or moderate-income households" means that either:

   a) At least 20% of the total units shall be sold or rented to lower income households, or
   b) 100% of the units shall be sold or rented to persons and families of moderate income or middle-income.

8) Defines "very low-income" as persons and families whose income does not exceed 50% area median income (AMI).

9) Defines "low-income" as persons and families whose income does not exceed 80% AMI.

10) Defines "moderate-income" as persons and families whose income does not exceed 120% of AMI.

11) Defines "above moderate-income" as persons and families whose income exceeds 120% of AMI.

This bill:

1) Broadens the application of the HAA to also include housing development projects with units affordable to above-moderate income households in several provisions.

2) Increases the burden on local jurisdictions from "substantial evidence" to "clear and convincing evidence" when making findings as to the disapproval of a housing development project.

3) Provides that a change in a zoning ordinance or general plan land use designation subsequent to the date the application was deemed complete shall not constitute a valid basis to disapprove or condition approval of the housing development project or emergency shelter.

4) Adds that a housing organization may file an action to challenge the disapproval, reduction of allowable densities or percentages of lot that may be occupied by a building or structure under the applicable general plan and zoning ordinances, or the imposition of conditions, including, but not limited to, fees or exactions and design changes that have a substantial adverse effect on the viability or affordability of a housing development project.

5) Adds that if a locality adds conditions, such as fees, exactions, project-specific conditions, or enactment of a zoning ordinance, general plan amendment, or other amendment that have a substantial adverse effect on the viability or affordability of a housing development for lower income, moderate-income, and above-moderate income households, that the burden shall be on the locality to show its decision is consistent with its findings.

6) Requires the local jurisdiction to publish an analysis of the requirements of the HAA as part of its review of each application for a housing development project.

7) Imposes a minimum fine of $100,000 per housing unit in the housing development project if a court finds a violation of the HAA. Fines shall not be paid out of funds already dedicated to affordable housing, and shall be committed to a housing trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low-, very low-, or low-income households. A court may also impose punitive damages if the court finds that the local jurisdiction acted in bad faith. If a housing organization is the prevailing party, it shall be entitled to reasonable attorney's fees.

8) Requires a petition to enforce the HAA shall be filed and served no later than 90 days from the later of:

    a) The withdrawal of the application by the applicant or the effective date of a decision of the local agency, or
    b) The expiration of the time periods specified in the Permit Streamlining Act.

9) Defines "very low-income" as persons and families whose income does not exceed 50% area median income (AMI).

10) Defines "low-income" as persons and families whose income does not exceed 80% AMI.

11) Defines "moderate-income" as persons and families whose income does not exceed 120% of AMI.

12) Defines "above moderate-income" as persons and families whose income exceeds 120% of AMI.

COMMENTS:

1) *Purpose of the bill.* According to the author, this bill seeks to address the severity of California's housing crisis by taking a critical look at cities approval processes for development. State courts are often too deferential to localities in accepting any justification declaring a development infeasible. Although there is an evident lack of funding, space, and construction, there are solutions the state can implement to ensure development is taking place in conjunction with a city's general plan and zoning ordinance.

2) *HAA Background.* The purpose of the HAA is to limit the ability of local agencies to reject or make infeasible housing developments without a thorough analysis of the economic, social, and environmental effects of the action. A person who would be eligible to apply for residency in the development or emergency shelter, or a housing organization, may bring an action to enforce the HAA. Many provisions of the HAA are limited to housing developments.

3) *Broaden applicability of HAA to market rate housing.* Most of the provisions in the HAA, under existing law, apply to housing projects containing units affordable to very low-, low- or moderate-income renters. According to the Department of Housing and Community Development, California presently has a surplus of 300,000 units affordable to above moderate-income earners, a 61,000 unit shortfall for moderate-income earners, a 1 million unit shortfall for low-income earners, a 1.5 million unit shortfall for very low-income earners, and a 1 million unit shortfall for extremely low-income earners. While the housing crisis is now felt among moderate income earners, the most severely impacted are lower-income earners (*i.e.* 3.5 million unit shortfall). The HAA incentivizes developers to include affordable housing in their housing developments by providing a remedy for the denial of a project.

   This bill would broaden some provisions of the HAA to apply to market rate housing. The expansion of this law to include market-rate development would remove any incentive to take advantage of the HAA by including affordable housing in a project, which includes the income levels where the crisis is most acutely felt. **The committee may wish to consider removing the expansion of provisions of the HAA to above-moderate income renters.**

4) *Rolling back settled law on developers fees.* In nearly all aspects of land use approval, significant controversies arise over the amount and type of exactions that a locality may impose when approving a development. The developer, in return for receiving the city's approval to develop the land and realize a profit, agrees to provide the city with a dedication of land (physical exaction) or an

amount of money (fee) for certain services and amenities necessary to accommodate the influx of new residents or employees. Through the exercise of police power, courts have held that a locality may impose conditions on development so long as the conditions are reasonable and there exists a sufficient nexus between the conditions imposed and the projected burden on the proposed development.[1] There is no single precise rule as to when a locality may impose a condition, and depends on whether the locality imposes a physical exaction or a fee, and whether the local government applies it to an ad hoc manner (*i.e.* examining the facts of each case), specific to a certain project, or as part of a generally applicable legislative enactment.

Additionally, in California, a development fee will include conditions requiring the payment of mitigation fees, in-lieu fees, funding for public facilities, infrastructure, and other fees. In approving these conditions, a locality must comply with the terms of the Mitigation Fee Act, which requires a locality to identify a fee's purpose and use, the reasonableness of the relationship between a fee and a given project, and the reasonableness of the relationship between the amount of the fee and the cost of the public facility attributable to the project. Courts will use an ad hoc analysis by reviewing the size of the development, demand for services, burden that will be created by the development, and the development's overall effect on the city and surrounding community. A developer may use the Mitigation Fee Act to challenge the imposition of a fee.

Since the passage of Proposition 13 of 1978, which limits most property taxes to one percent of the property value, many cities have been hit hard by the resulting loss in revenues and had to cut services sharply. To make up for those losses, cities increasingly turned to benefit assessments, special taxes, development fees, and other new revenue sources. Developers argue that these extra expenses drive up the cost of development and result in higher costs for the home buyer.

In several provisions, this bill expands the ability for a developer to challenge the imposition of "conditions", including "fees", "exactions", or "project-specific conditions." This means that a developer could challenge any condition or fee as an unlawful exaction, in contradiction of existing settled federal and state law. Furthermore, these expansions could permit a developer to challenge inclusionary requirements imposed by the locality if these fees or exactions have a substantial adverse effect on the viability of a housing development. Additionally, given that this bill also expands the applicability of

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[1] *See* generally *Nollan v. California Coastal Commission* 483 U.S. 825 (1987); *Dolan v. City of Tigard* 512 U.S. 374 (1994).

these provisions to developments with above moderate incomes, these expansions would create significantly more opportunities for legal challenges.

The committee may wish to consider removing these expansions to maintain existing law to avoid opening the door on settled federal and state law around local police powers.

5) *Higher standard of proof.* This bill would increase the burden on local jurisdictions from "substantial evidence" to "clear and convincing evidence" when making findings as to the disapproval of a housing development project. "Clear and convincing" indicates that the thing to be proved is highly probably or reasonably certain. According to the author, state courts are too deferential to local jurisdictions and accept "any justification" for failing to meet state housing goals. By elevating the evidentiary standard to "clear and convincing," localities will need to prove that denying proposed housing development projects or conditioning their approval upon lower density is necessary to safeguard human health and safety.

6) *Fines, fees, and punitive damages.* Under existing law, a court may compel compliance with the HAA, including an order that the locality approve the housing development or emergency shelter. Additionally, a court may impose fines upon a local agency for acting in bad faith. This bill would impose a minimum fine of $100,000 per housing unit in the housing development project if a court finds a violation of the HAA. These fines cannot be paid out of funds already dedicated to affordable housing, and shall be committed to a housing trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low-, very low-, or low-income households. If a housing organization is the prevailing party, it shall be entitled to reasonable attorney's fees. A court may also impose punitive damages if the court finds that the local jurisdiction acted in bad faith.

   According to the author, when other entities such as businesses or people break the law, they often must pay fines, lose licenses, or face imprisonment. When municipalities violate the HAA, there are no repercussions. Imposing specific fees may not only punish bad actors, but may also serve as a deterrent for violating the HAA. As noted by the opposition, these fines could result in financial hardship for localities depending on the size of the project. **The author has agreed that these fines may be too high, and will work on the appropriate fines in the Senate Judiciary Committee.**

7) *Seeing double.* This bill is exactly the same as a bill that was introduced in the Assembly (see related legislation section below). The author states the reason

for moving two bills that are exactly the same in two houses is to provide "two vehicles" for the same legislation.

8) *Opposition.* California State Association of Counties, Rural County Representatives of California, and the Urban Counties of California, writing in opposition, are primarily concerned that this bill would create a system in which not all projects would be treated equally with relation to fees. Some fees are necessary to provide essential services to a development, and some are imposed by special districts that are not under control by a city or county. The opposition also states that the court fines are too high and could bankrupt a city. Lastly, the opposition contends that the higher standard of proof is almost impossible for local governments to meet. The American Planning Association, California Chapter shares these concerns, and adds that expanding the HAA to include above moderate-income would remove any incentive to take advantage of the HAA by including affordable housing in a project.

9) *Double-referral.* This bill was double-referred to the Senate Judiciary Committee.

RELATED LEGISLATION:

AB 678 (Bocanegra, 2017) — would make several substantive changes to the HAA and is identical to this bill.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, March 29, 2017.)

SUPPORT:

California Apartment Association
San Francisco Housing Action Coalition

OPPOSITION:

American Planning Association – California Chapter
California State Association of Counties
Rural County Representatives of California
Urban Counties of California

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	SB 179	**Hearing Date:**	4/4/2017
Author:	Atkins		
Version:	3/27/17 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Gender identity: female, male, or nonbinary

DIGEST: This bill, among other things, provides for a third gender option on the state driver's license and identification card.

ANALYSIS:

Existing law:

1) Requires the state Department of Motor Vehicles (DMV) to issue a driver's license to an applicant whom DMV has determined is lawfully entitled to it. The license must include the class for which the licensee is qualified; the distinguishing number assigned to the applicant; the date of expiration; the true full name, age, sex, and mailing address of the licensee; a brief description and engraved picture or photograph of the licensee for purposes of identification; and space for the licensee's signature.

2) Authorizes DMV to issue an identification card to an individual attesting to the true full name, correct age, and other identifying data as certified by the applicant. Requires DMV to issue an identification card bearing the notation "Senior Citizen" to any applicant 62 years or older. Requires the application to be signed and verified by the applicant and to be supported by documentation as required by DMV.

3) Requires the State Registrar to issue a new birth certificate reflecting a change of sex, and a change of name if requested, without a court order, for an individual who has undergone clinically appropriate treatment for the purpose of gender transition if the individual submits a specified affidavit signed by a licensed physician.

4) Requires a petition for a name change to be filed in the superior court of the county where the petitioner resides. The petition may include a request to

conform the petitioner's name to his or her gender identity. Authorizes an individual who has undergone clinically appropriate treatment for the purpose of gender transition, to file a petition with the superior court in any county seeking a judgment recognizing the change of gender. Requires the judgment, if requested, to include an order that a new birth certificate be prepared for the person reflecting the change of gender and any change of name.

This bill:

1) Requires an applicant for a driver's license or identification card to choose a gender category of female, male, or nonbinary. Provides that an applicant's gender choice on an original, renewed, or amended driver's license is not subject to review by DMV. Requires DMV to adopt regulations to provide a process for an expedient amendment to a gender category and prohibits DMV from requiring an applicant to provide additional documentation.

2) Requires the State Registrar to issue a new birth certificate reflecting a change of gender to female, male, or nonbinary without a court order if the individual submits an application to change the gender on the birth certificate and an affidavit attesting under penalty of perjury that the request is to conform the individual's legal gender to the individual's gender identity.

3) Authorizes an individual to file a petition with the superior court in any county to change the individual's gender to female, male, or nonbinary. Requires the court to grant the petition without a hearing within 28 days of the filing of the petition, unless an objection is timely filed. If a hearing is held, the court shall grant the petition at the conclusion of the hearing if the court determines the petition was not made for any fraudulent purpose.

COMMENTS:

1) *Purpose.* The author states that current law creates onerous and unnecessary barriers for people who wish to apply for a change in gender on their state-issued identity documents. One of the most significant of these barriers is the requirement for a physician's sworn statement certifying the extent of medical treatment received by the applicant during their gender transition. This requirement is problematic because not all transgender people have access to transition-related healthcare. Moreover, whatever steps are taken toward a gender transition have no bearing on someone's gender identity. An additional barrier is the requirement that an applicant for a gender change court order or a corresponding name change court order appear in court even if no timely objections have been filed. For many, this is an intimidating and confusing

process. Additionally, current law has no procedure by which someone under 18 years old can apply for a change in gender on their birth certificate. Finally, the state does not recognize nonbinary individuals, who self-identify as neither male nor female. This causes them emotional distress and violates their right to be free from discrimination on the basis of their gender identity and expression.

2) *Precedent.* According to the author, while no states currently allow for a third gender marker on state identification documents, other countries including Australia, Germany, India, Nepal, and New Zealand already provide this option. In addition, some local governments and public institutions in the US have taken steps in this direction; the New York City municipal ID allows for a "not designated" gender option, and some municipal IDs, like San Francisco, do not include a gender option. Additionally, several campuses in the University of California system have begun to take steps to allow students to self-attest to their gender. Finally, an Oregon court and at least one California court have recently recognized an individual's gender as nonbinary.

3) *What about REAL ID?* The federal REAL ID Act of 2005 enacts the 9/11 Commission's recommendation to establish federal standards for issuing driver's licenses and other sources of identification. It establishes minimum standards including enhanced security feathers on the driver's license or identification card and a requirement for applicants to provide their social security number, birth certificate, and proof of legal presence in the US. The REAL ID Act prohibits federal agencies from accepting documents for official purposes (e.g., boarding an airplane or entering a federal building) unless the US Department of Homeland Security that the state meets the minimum standards. The committee understands that the driver's license and identification card provisions of this bill do not appear to violate any REAL ID requirements.

4) *Double referral.* This bill has also been referred to the Judiciary Committee. The author plans to amend this bill in Judiciary Committee to respond to Judicial Council concerns with respect to this bill's language related to court hearings and minors. This committee, however, will focus primarily on the DMV-related provisions of this bill.

RELATED LEGISLATION:

AB 1121 (Atkins, Chapter 651, 2013) — as of July 1, 2014, creates an optional administrative procedure for a transgender individual born in California to amend gender and name on the individual's birth certificate without first obtaining a court order.

AB 1951 (Gomez, Chapter 334, 2014) — requires the State Registrar, beginning January 1, 2016, to modify birth certificates to recognize same-sex couples, allowing for a gender-neutral option on the certificate identifying a "parent."

AB 2528 (Skinner, 2014) — would have required the State Registrar to ensure that diacritical marks on English letters are properly recorded on birth certificates, death certificates, certificates of fetal death, and marriage licenses, and to develop procedures to include other reasonable requests relating to names on these documents, and would also have created substantially similar requirements for the Secretary of State relating to certificates of domestic partnerships and for DMV relating to identification cards. *This bill was held on the Assembly Appropriations Committee suspense file.*

AB 935 (Frazier, Chapter 644, 2014) — requires the DMV to offer a driver's license or identification card that includes the word "VETERAN" on its face.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, March 29, 2017.)

SUPPORT:

Equality California (co-sponsor)
Transgender Law Center (co-sponsor)
American Academy of Pediatrics
American Civil Liberties Union of California
California Latinas for Reproductive Justice
California LGBT Health & Human Services Network
California Pan-Ethnic Health Network
National Association of Social Workers, California Chapter
San Diego LGBT Center
Secular Coalition for California
St. James Infirmary
Transgender Advocates for Justice & Accountability's Coalition
Transgender Gendervariant Intersex Justice Project
18 individuals

OPPOSITION:

None received.

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	SB 185	**Hearing Date:**	4/4/2017
Author:	Hertzberg		
Version:	3/20/17 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Crimes: infractions

DIGEST: This bill, in relation to traffic fine violations: (1) requires a court to determine a defendant's ability to pay and make specified accommodations if it determines the defendant to be indigent; (2) prohibits the court from issuing a driver's license hold for a failure to pay or failure to appear; (3) requires the court to issue specified notices to a defendant in relation to requirements to appear or pay; and (4) makes provisions for cases where a defendant willfully fails to appear or pay.

ANALYSIS:

Existing law:

1) Allows the court to initiate a driver's license suspension or hold for a traffic infraction violation.

2) Provides that an individual willfully violating a promise to appear in court, or a continuance on a promise to appear, is guilty of an infraction.

3) Provides that an individual willfully failing to pay in installments as ordered, or failing to pay a lawfully imposed fine for a traffic violation, is guilty of a misdemeanor regardless of full payment after that time.

4) Provides that an individual who willfully fails to appear for the first time, or willfully violates a lawfully granted continuance on a promise to appear in court, is guilty of a misdemeanor.

5) Provides that if an individual has violated a written promise to appear or a lawfully granted continuance of a promise to appear, the court may notify DMV. Requires the court, if the fine is thereafter fully paid, to notify DMV.

This bill includes the following provisions:

Determination of ability to pay

1) Requires the court to determine whether a defendant in any traffic infraction case is indigent, as specified, no less than 20 days prior to determining whether the defendant willfully failed to pay. Prohibits the court from determining a defendant to have willfully failed to pay if it has determined that the defendant is indigent.

2) Requires the court, if it determines that the defendant is indigent, to reduce the base fine, penalty assessments, any state or local fees, and any civil assessments, by 80% on all charges pending against the defendant.

3) Requires the court to provide alternative options, including a reasonable payment plan as specified, for the amount remaining after the indigency reduction, or for a person who has been found not to be indigent. Prohibits the court from charging a fee for the payment plan. Requires the court to place a defendant who has been determined indigent on a payment plan of $0 per month until his or her financial circumstances change. Allows an individual who enters into a payment plan with the court and whose income is subsequently reduced to request a change in payment plan. Provides that if the defendant's circumstances have not changed after 48 months, the court shall discharge the remaining amount owed.

4) Requires the court, if it provides community service as an alternative to payment of fees and fines, to calculate the requisite number of hours after making the 80% indigency reduction, as specified. Prohibits the court from charging a fee for the community service option. Provides that if a defendant selects community service, he or she shall choose the county in which to perform the service. Requires the court to consider the defendant's ability to perform and provides that community service shall not conflict with employment, education, government-mandated activities, or any other obligation disclosed by the defendant.

5) Requires the court to determine ability to pay for any individual who misses a deadline to pay or appear on a citation without first paying any bail, fine, or fee. Requires the court, if the individual thereafter enters into or resumes a payment plan, to notify DMV and for any driver's license hold to be removed.

6) Authorizes an individual to request at any time that the court review the payment plan if he or she believes there was an error in the calculation. Requires the court to affirm, reverse, or modify any such judgment or order or direct a new trial or further proceeding.

Driver's license holds or suspensions

7) Prohibits the court from initiating a driver's license suspension or hold for a traffic infraction violation and removes existing law provisions authorizing the court to notify DMV of a failure to pay or a failure to appear.

8) Requires the court to notify DMV that an individual who is determined to be indigent and enrolls in a reasonable payment plan, or is participating in a comprehensive collection program, has satisfied the court and thus may have his or her driver's license restored.

Notices to defendant

9) Requires the court to send the defendant a reminder notice of his or her promise to appear in court relating to a traffic infraction, in addition to the initial notice to appear. The reminder notice shall include specified information such as the total bail amount and payment options, the potential consequences for failure to appear and failure to pay a fine, the right to an indigency determination, and notice of the option to pay bail through community service and installment plans, among other provisions.

10) Requires the court, after the case has been adjudicated, to send the defendant a reminder notice, including specified information, regarding payment of fines, no later than 30 days prior to the payment deadline.

11) Requires the court, if it refers the case to a comprehensive collection program as delinquent debt, to send a specified notice to the defendant. Requires the comprehensive collection program, if the case is unadjudicated, to send a specified notice to the defendant.

Willful failure to appear or willful failure to pay

12) Requires the court, if the defendant willfully defaults on payments after coming into compliance with an installment payment plan, to send the defendant a specified notice that he or she has defaulted and has 60 days to either resume making payments or to request that the court modify the payment amount.

13) Reduces a violation of willful failure to appear on more than one case within the past five years, from a misdemeanor to an infraction.

14) Provides that an individual who willfully fails to appear for the first time, or willfully violates a continuance on a promise to appear, is not guilty of an infraction unless the individual fails to appear before the court to schedule a new hearing date within 60 days.

15) Requires the court to fully restore all fines if it finds the defendant's indigent status to be willfully fraudulent.

16) Provides that if an individual has violated a promise to appear or a continuance of a promise to appear, the court shall issue a specified notice to the defendant that he or she is required to appear within 60 days. Allows the court to notify DMV if the defendant does not appear within 60 days. Prohibits the court from issuing a bench warrant for a failure to appear. Requires DMV to remove any driver's license hold if the case is thereafter adjudicated.

COMMENTS:

1) *Purpose.* The author states that according to the American Association of Motor Vehicle Administrators, traffic offenses represent the largest number of cases in state and local courts across the country. California law allows the courts to impose hundreds of dollars in administrative penalties (civil assessments) if a defendant misses a court date or a payment, which may ultimately lead to a suspended driver's license. The author states that suspending a license is appropriate for unsafe driving behavior, but is overly harsh for failure to pay since the practice undermines a defendant's ability to earn the necessary wages to pay the ticket. The debt that working Californians are saddled with from these penalties pushes low-income individuals into poverty and even jail. Furthermore, courts frequently do not make a determination of a defendant's ability to pay a ticket, as required by law; and when payment plans are offered, the required payments may be just as unaffordable for some defendants as the original costs. This bill addresses these issues by prohibiting courts from administratively suspending a driver's license in order to collect court-related debt for non-safety offense and requiring courts to reinstate suspended licenses for anyone making a good faith effort to meet their obligations.

2) *Amnesty program expiring.* The author and sponsors have worked with the Administration for several years on how to address issue of onerous traffic fines

(see "Related Legislation" below.) In 2015, the Governor proposed an amnesty program to provide a legal remedy for individuals who had their licenses suspended after a failure to appear or a failure to pay violation. The Legislature adopted this proposal as part of the 2015-16 budget act. Beginning in October 2015, the courts began to accept applications under the amnesty program and to date have restored driving privileges to more than 130,000 Californians. However, the amnesty program expires on March 31, 2017. This bill proposes to create a permanent legal remedy in its place by utilizing many of the provisions of amnesty.

3) *Is driver's license suspension an effective hammer?* The intended purpose of suspending a driver's license in response to a failure to appear or failure to pay is to coerce that individual into compliance. The DMV reports that 612,000 Californians currently have a license suspended solely for having an FTA or FTP. More than 4.5 million Californians have received FTAs or FTPs since 2006 that could lead to their license being suspended at any time. WCLP states that "if license suspension was an effective tool for encouraging cooperation, the state would not have such high numbers." In addition, the state currently has billions of dollars of uncollected court-ordered debt, further calling into question the effectiveness of license suspension.

4) *Governor's budget proposals.* The Governor's proposed 2017-18 budget includes three proposals related to the state's criminal fine and fee system:

   a) Eliminate the statutory formulas dictating how State Penalty Fund revenues are distributed and instead appropriate these revenues directly to specific programs (not necessarily the same programs that currently receive these revenues).
   b) Provide a $1.1 million augmentation from the Court Collection Account for the Franchise Tax Board's Court-Ordered Debt Collection Program to maintain existing service levels and eliminate a backlog.
   c) Eliminate the ability to use driver's license holds and suspensions as a sanction for an individual's failure to pay.

5) *A question of constitutionality?* Howard Herships, an individual who lost his driver's license in relation to a 2014 red light camera violation, is seeking a federal court order to block the practice of, as he describes it, California's courts using traffic fines as self-funding revenue streams. Herships alleges that this practice is a conflict of interest and is unconstitutional. His case will be heard in federal court in May 2017.

6) *Double referral.* This bill has also been referred to the Committee on Public Safety.

RELATED LEGISLATION:

SB 881 (Hertzberg, Chapter 779, 2016) — modifies the traffic amnesty program as follows: (a) requires a court, when notifying the DMV that an individual with a suspended license has appeared in court, paid the fine, or otherwise satisfied the requirements of the amnesty program, to do so within 90 days; (b) requires a court, for amnesty applications submitted prior to January 1, 2017, that are still outstanding as of that date, to notify the DMV no later than March 31, 2017, of individuals who have satisfied the requirements of the program; (c) provides, for applications submitted on or before March 31, 2017, that all terms and procedures related to the participant's payment plans shall remain in effect after March 31, 2017; and (d) requires an individual to file a request with the court by March 31, 2017, in order to be eligible for the amnesty program.

SB 405 (Hertzberg, Chapter 385, 2015) — required courts to allow individuals to schedule court proceedings, even if bail or civil assessment has been imposed, and clarifies the traffic amnesty program.

SB 85 (Committee on Budget and Fiscal Review, Chapter 26, 2015) — authorized an 18-month traffic amnesty program, by October 1, 2015, for delinquent debt. This program expires on March 31, 2017.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, March 29, 2017.)

SUPPORT:

American Civil Liberties Union of California (co-sponsor)
Community Housing Partnership (co-sponsor)
East Bay Community Law Center (co-sponsor)
Legal Services for Prisoners with Children (co-sponsor)
Western Center on Law and Poverty (co-sponsor)
Alliance for Children's Rights
A New Way of Life Re-Entry Project
Bay Area Legal Aid
California Catholic Conference

California District Attorneys Association
Californians for Safety and Justice
Coleman Advocates for Children and Youth
Contra Costa County Defenders Association
Courage Campaign
Ella Baker Center for Human Rights
Equal Justice Society
Fifth Street Residents
Filipino Bar Association of Northern California
Foster Care Counts
Homeboy Industries
Jobs with Justice San Francisco
Law Enforcement Action Partnership
Law Foundation of Silicon Valley
Legal Aid Association of California
Legal Services of Northern California
Los Angeles Conservation Corps
Los Angeles County Professional Peace Officers Association
Mental Health Advocacy Services, Inc.
National Center for Lesbian Rights
National Center for Youth Law
National Employment Law Project
Prison Policy Initiative
Rabbi Suzanne Singer
Root and Rebound
Rubicon Programs
San Diego Volunteer Lawyer Program
Supportive Housing Providers Network
W. Haywood Burns Institute
Women Organizing Resources Knowledge and Services (WORKS)
Young Women's Freedom Center

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	SB 347	**Hearing Date:**	4/4/2017
Author:	Jackson		
Version:	2/14/2017		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Randy Chinn		

SUBJECT: State Remote Piloted Aircraft Act

DIGEST: This bill establishes rules on the operation of remote piloted aircraft (i.e., drones).

ANALYSIS:

Existing federal regulations:

Require all drone owners to register their drones with the Federal Aviation Administration (FAA) if those drones weigh more than 0.55 pounds. Commercial drone pilots must have a Remote Pilot Airman certificate, be at least 16 years old, and pass a security vetting by the TSA. There are no requirements for recreational pilots.

Existing federal regulations require that the drone be in the line of sight of the operator, fly less than 400 feet above the ground with a speed limit of 100 mph, not fly over people, not fly at night, and generally prohibit the use of drones around airports.

Existing law establishes a Division of Aeronautics within the California Department of Transportation (Caltrans).

This bill:

1) Prohibits the weaponization of a drone or the operation of a weaponized drone.

2) Prohibits the operation of a drone in any of the following manners:
   a) In a manner that interferes with manned aircraft
   b) In a manner that is prohibited by federal statute or regulation
   c) In a careless or reckless manner
   d) In a manner constituting a nuisance, as defined

e) In a manner that violates an individual's right to privacy
f) In a manner that constitutes trespass

3) Requires drones to be operated in compliance with all licensing, registration and marking requirements of the FAA.

4) Requires every commercial drone operator to maintain adequate liability protection, as determined by Caltrans after a public hearing.

5) Authorizes Caltrans to develop additional implementing regulations.

6) Establishes that a violation shall be punishable as an infraction with a fine not to exceed $250, or as a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding $1000, or both that imprisonment and fine.

COMMENTS:

1) *Author's Statement.* The development of small unmanned aircraft systems — known as "unmanned aerial vehicles," "remote piloted aircraft," or simply "drones" — promises to revolutionize the way Californians interact with each other and their environment. However, the lack of clear rules governing the use of this emerging technology threatens to harm orderly use of California's airspace and undermine public safety. To date, the lack of regulation has led to disputes between neighbors concerned about invasions of their privacy, impacts to wildlife, near-collisions with airplanes and helicopters, interference with firefighting efforts, and accidents injuring innocent bystanders. Some individuals are reportedly modifying drones to carry weapons, and, in at least one instance, a drone was used to land radioactive material on the roof of a government building. Commonsense rules are needed to ensure that drones are used in a safe and responsible manner, consistent with the values of the people of the State of California.

2) *Background.* Moving beyond hobbyists and the military, drones are increasingly a part of commercial and recreational activities. In fields as diverse as agriculture, filmmaking, electric utility service, and public safety, drones can monitor, track, and provide surveillance in many useful and previously undoable ways. Amazon and Google are experimenting with using drones to speed package delivery. Drones have become easier to use and have become less costly. This, combined with improved cameras and sensors, has caused drone sales to take off, so to speak. The FAA estimated that 1 million drones would be sold during the 2015 Christmas season. Compared to 2014,

the Consumer Electronics Association estimated that drone sales would increase by 63% in 2015. The FAA believes that twice as many drones were sold in 2016, 2.5 million, than 2015.

Drones will play an increasingly visible role in our future. They will be used by many businesses and government entities to do their jobs better and more efficiently, and they'll be used by our friends and neighbors for recreation. They will also be over our heads, whether in the park, at the mall, or in our backyards.

The remarkable growth in drone usage creates issues, as more untrained drone operators take to the sky. Foremost is public safety, as drones can imperil aircraft, as recent incidents with commercial aviation and forest fire-fighting aircraft demonstrate. The FAA has noted that, "Incidents involving unauthorized and unsafe use of small, remote-controlled aircraft have risen dramatically. Pilot reports of interactions with suspected unmanned aircraft have increased from 238 sightings in all of 2014 to 780 through August of this year (2015)."[1] Between December 2013 and September 12, 2015, the Center for the Study of the Drone at Bard College collected records of 921 incidents involving drones and manned aircrafts in the national airspace. One hundred fifty eight incidents were classified as instances in which a drone came within 200 feet or less of an airplane, 28 of which required a pilot to maneuver the aircraft to avoid a collision with a drone. During that period, seventeen drone sightings and near misses were documented near Los Angeles International Airport.[2] On April 17, 2016, a drone struck a British Airways passenger aircraft landing at Heathrow Airport. (No major damage was reported.) This is believed to be the first time a drone has struck a landing passenger aircraft.

The safety of the public on the ground is also potentially at risk, as drones can crash, be mis-piloted, or simply malfunction: On September 12, 2015 an operator error caused a drone to crash to the ground in Pasadena, injuring an 11 month old girl. Two separate drone crashes in Seattle, at the Space Needle and at an amusement park, have caused scares but no injuries. Drones can also be used for harmful purposes, as in the case of transporting contraband into prisons or as a means for conveying explosives or other dangerous materials. And there are the more conventional concerns about privacy and nuisance behavior.

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[1] FAA Office of the Chief Counsel; "State and Local Regulation of Unmanned Aircraft systems (UAS) Fact Sheet"; December 17, 2015.

[2] "Drone Sightings and Close Encounters: An Analysis," Center for the Study of the Drone at Bard College, December 2015.

3) *Looks familiar.* This bill is similar to SB 868 (Jackson, 2016), which passed this committee last year. The provisions regarding how the drone may be operated, requiring compliance with federal regulations, and requiring insurance are nearly identical to that bill. However, unlike SB 868, this bill does not restrict where drones can operate.

4) *Current drone regulation.* On June 21, 2016 the FAA adopted regulations for commercial uses of drones weighing less than 55 pounds. These regulations require line-of-sight operation, a maximum airspeed of 100 mph, and a ban on operation over people, a maximum operating altitude of 400 feet, and training and licensing for the operator. Accidents that result in serious injury or property damage of more than $500 must be reported to the FAA. Both commercial and recreational drone users must register their drones if they weight more than 0.55 pounds.

   Several California local governments have enacted their own drone regulations. In October 2015, the City of Los Angeles enacted drone regulations similar to the FAA proposal. In December, the city filed the first criminal charges under the ordinance, citing two individuals for operating a drone which interfered with a Los Angeles Police Department air unit, causing it to change its landing path. In northern California, the Golden Gate Bridge, Highway and Transportation District banned drones near the Golden Gate Bridge after a drone crashed on the roadway. The City of San Diego has proposed drone rules, which give local police enforcement authority, which are pending.

5) *Jurisdiction.* The dividing line between state and federal jurisdiction of drones has been made clearer with the recently released FAA regulations. The regulations do not preempt state jurisdiction over privacy rights or trespassing laws. The regulations generally leave it to the drone operator to determine where they can fly; the regulations do not prohibit drone flight over critical infrastructure, such as power plants and prisons.

6) *Enforcement.* The FAA is responsible for enforcing its regulations, but partners with state and local governments for help. By codifying the federal regulations into state law, this bill authorizes state and local law enforcement authorities to enforce those regulations, which may be the most consequential part of the bill.

7) *Caltrans.* This bill requires the development of implementing regulations by Caltrans. While this may seem an odd assignment, within Caltrans resides the Division of Aeronautics, a 25-person unit which deals with siting, planning, and inspection issues at public-use airports. These are airports open to the general public, such as Sacramento Executive Airport, and do not include the large

commercial airports, such as Sacramento International Airport. Caltrans is the only state agency with any dealings or familiarity with the FAA and is therefore the best, though imperfect, fit for these regulatory duties.

8) *Opposition.* Insurance companies, technology trade groups and others oppose the bill. The insurance companies oppose the insurance requirement. And the opponents generally oppose any state regulation, arguing that state regulation risks slowing the growth of this new industry. The opponents do not argue that the provisions of this bill are preempted; rather, they are concerned that the provisions of this bill are unwise and will create a patchwork of regulations.

9) *Double Referral.* This bill has been double-referred to the Senate Public Safety Committee.

RELATED LEGISLATION:

SB 868 (Jackson, 2016) — This bill comprehensively regulates by establishing numerous prohibitions, restrictions, and penalties on their use in ways that would invade privacy, endanger personal safety, interfere with critical infrastructure or harm nature. *This bill failed passage in the Assembly Privacy and Consumer Protection Committee.*

AB 1820 (Quirk, 2016) — This bill prohibits a law enforcement agency from using an unmanned aircraft system, obtaining an unmanned aircraft system from another public agency, or using information obtained from an unmanned aircraft system, except as specifically authorized. *This bill failed passage in the Senate Judiciary Committee.*

SB 807 (Gaines, 2016) — would provide public entities and public employees with immunity from civil liability for any damage to an unmanned aircraft system if the damage was caused while the public entity or public employee was providing, and the unmanned aircraft system was interfering with, the operation, support, or enabling of specified emergency services. *This bill was passed into law (Chapter 834 of 2016).*

AB 2320 (Calderon, 2016) — places several restrictions on the use of unmanned aircraft systems, including using such systems to violate protective orders, to view the scene of an emergency in a way that impedes police officers, firefighters, emergency medical, or other emergency personnel, or military personnel in the performance of their emergency duties, or to stalk another person by willfully, maliciously, and repeatedly following or willfully and maliciously harassing another person. *This bill was vetoed.*

AB 56 (Quirk, 2015) — prohibits law enforcement agencies from using an unmanned aircraft system, obtaining an unmanned aircraft system from another public agency by contract, loan, or other arrangement, or using information obtained from an unmanned aircraft system used by another public agency, unless certain requirements are met. *This bill was amended to deal with unrelated subject matter in the Senate.*

SB 142 (Jackson, 2015) — Establishes that operation of a drone below the navigable airspace overlying the property of another without permission is trespassing. *This bill was vetoed by the Governor.*

SB 170 (Gaines, 2015) — Prohibits operation of a drone over a jail. *This bill was vetoed by the Governor.*

SB 271 (Gaines, 2015) — Prohibits operation of a drone over a K-12 school campus or the taking of pictures by a drone of a K-12 campus without permission. *This bill was vetoed by the Governor.*

AB 14 (Waldron, 2015) — Establishes a drone task force to recommend policies regarding drone use. *This bill failed passage in the Assembly Transportation Committee.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, March 29.)

SUPPORT:

California Police Chiefs Association
California State Association of Counties
League of California Cities
Rural County Representatives of California

OPPOSITION:

American Insurance Association
California Chamber of Commerce
California Retailers Association
Computing Technology Industry Association

The Association for Unmanned Vehicle Systems International
State Farm Mutual Automobile Insurance Company (State Farm)

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	SB 362	**Hearing Date:**	4/4/2017
Author:	Galgiani		
Version:	2/14/2017		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Department of Motor Vehicles: records: confidentiality

DIGEST: This bill adds Department of Insurance investigators, code enforcement officers, and parking control officers to the list of categories for which the state department of Motor Vehicles (DMV) must hold home addresses confidential.

ANALYSIS:

Existing law:

1) Provides that any residence address in any DMV record is confidential and shall not be disclosed to any person except a court, law enforcement agency, or other government agency, as specified. Authorizes a financial institution, insurance company, and specified other parties licensed to do business in California, to request an individual's record from DMV if it has obtained a waiver from the individual.

2) Authorizes an individual to seek suppression of any DMV registration or driver's license record if he or she can show that he or she is the subject of stalking, a death threat, or a threat of great bodily injury. The suppression shall be for a period of one year and renewable for two additional one-year periods.

3) Requires the home addresses of specified individuals, including peace officers, members of the Legislature, and nearly two dozen other specified categories, which appear in DMV records to remain confidential upon request of the individual. Provides that this information shall not be disclosed except to a court, a law enforcement agency, the State Board of Equalization, an attorney in a civil or criminal action as specified, or a government agency.

4) Provides that the willful, unauthorized disclosure of confidential DMV information for specified law enforcement individuals that results in the bodily injury to that individual or those individuals, is a felony.

5) Provides that the release of such confidential information, for all other persons is a misdemeanor and punishable by a fine of up to $5,000 and/or by up to one year in a county jail.

This bill adds the following individuals to the existing law prohibition on disclosure of the home addresses in the DMV records of certain public employees and officials:

a) An investigator employed by the Department of Insurance.
b) A code enforcement officer, as specified.
c) A parking control officer employed by a city, county, city and county, university, college, public hospital, public airport, special district, or other public agency to monitor and enforce state laws and ordinances relating to parking.

COMMENTS:

1) *Purpose.* The author states that code enforcement officers are on the front line of code compliance, and sometimes drug trafficking and gang-related enforcement efforts, and are frequently required to deal with hostile, non-compliant individuals. Parking control officers also face clear and present danger in the fulfillment of their job duties and have received credible threats and have been the victims of physical assaults. Non-sworn investigators at the Department of Insurance regularly conduct investigations of licensees and non-licensees which may result in administrative action and/or criminal charges. These investigators should be afforded the same protections from potential retaliation. Their jobs put them at risk every day and could potentially put both them and their families in danger. This bill will classify their information as confidential, a protection that already exists for Licensing Registration Examiners at DMV, Museum Security Officers, Licensing Program Analysts at the Department of Social Services, and police dispatchers, to name a few.

2) *Background on existing law.* In 1977, the Legislature passed legislation to provide confidentiality of home addresses to specified public employees and their families. Aside from those individuals, DMV records were considered public records. In 1989, actress Rebecca Shaeffer was stalked and murdered. The murderer obtained her address from an out-of-state private investigation agency, who had obtained the address through a state subcontractor, who had obtained it from the DMV. In response, the Legislature passed AB 1779 (Roos, Chapter 1213, 1989), which required the DMV to make addresses in DMV records confidential. The DMV is unaware of any instances since 1989 in

which DMV home address information has been used for physical harm or for violent criminal purposes.

3) *The Volpe case.* The author states that eight code enforcement officers have been murdered in the line of duty, and many others have been the victim of physical assaults and/or have received threats aimed at themselves or their families. The author cites the example of the murder of Code Enforcement Officer Cynthia Volpe in Bakersfield on August 19, 1992. Volpe, along with her husband and mother, were murdered in their home by Robert Courtney, to whom she had issued a citation. The author states that subsequent evidence revealed that Courtney had located Volpe by accessing DMV records. News articles about the murders indicated that certain parties involved "believed" that Courtney had accessed DMV records, but did not indicate that there was any evidence that DMV access had occurred.

4) *Does this bill really solve the problem?* Existing law requires the DMV to hold residence addresses confidential, with specified exceptions for courts, law enforcement agencies, or other specified government agencies. It would be extremely difficult, if not impossible, for a random individual contacting the DMV to obtain another individual's home address. As stated in the Assembly Transportation Committee analysis of SB 767 of 2014 (see Comment #5 below), "People seeking confidential information about others generally do not look to DMV records for personal data since those records are so carefully protected and the same information is much more easily obtainable via the internet and social media." For example, it is relatively simple to find a home address online for an individual who has purchased a home in California.

5) *Trying again...and again.* Many similar bills have failed passage in the Legislature just since 2000, including the following.

   a) SB 1131 (Galgiani, 2016) — which was nearly identical to this bill, was held on suspense in Senate Appropriations.
   b) SB 372 (Galgiani, 2015) — which was also nearly identical to this bill, was also held on suspense in Senate Appropriations (the bill was later amended to a different subject).
   c) SB 767 (Lieu, 2014) — which applied only to code enforcement officers, died in the Assembly Transportation Committee.
   d) AB 1270 (Eggman, 2013) — which also applied only to code enforcement officers, was held on suspense in Assembly Appropriations.
   e) AB 923 (Swanson, 2009) — which applied to veterinarians employed by a zoo or animal shelter as specified, as well as constitutional officers of the

State Board of Equalization (BOE) and code enforcement officers, was held on suspense in Assembly Appropriations.

f) AB 592 (B. Lowenthal, 2009) — which would have applied to certain BOE employees, was held on suspense in Assembly Appropriations.
g) AB 1958 (Swanson, 2008) — which would have applied to veterinarians employed by a zoo or animal shelter as specified, as well as firefighters and code enforcement officers, was held on suspense in Assembly Appropriations.
h) AB 1864 (Correa, 2000) — would have applied to certain police and sheriff's department employees, died in Assembly Appropriations.

6) *Successful efforts.* Several bills addressing confidentiality of home addresses have been passed by the Legislature since 2000.

a) AB 2687 (Bocanegra, Chapter 273 of 2014) included Licensing Program Analysts at the Department of Social Services in confidentiality protections.
b) AB 84 (Hertzberg, Chapter 809 of 2001) included trial court employees and psychiatric social workers in confidentiality protections.
c) AB 1029 (Oropeza, Chapter 486 of 2001) included specified police and sheriff's department employees in confidentiality protections.

7) *Double-referral.* This bill has also been referred to the Committee on Public Safety.

RELATED LEGISLATION:

SB 1311 (Glazer, Chapter 889, 2016) — requires DMV to discontinue holding the home address of the child or spouse of a specified public safety employee confidential if the child or spouse is convicted of a felony in California or a crime in another state that would be a felony in California.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, March 29, 2017.)

SUPPORT:

Association for Los Angeles Deputy Sheriffs
Association of Deputy District Attorneys
California Association of Code Enforcement Officers

California College and University Police Chiefs Association
California Narcotic Officers Association
County of San Diego
Los Angeles County Professional Peace Officers Association
Los Angeles Police Protective League
Riverside Sheriff's Association

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	SB 414	**Hearing Date:**	4/4/2017
Author:	Vidak		
Version:	2/15/2017		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Manny Leon		

SUBJECT: Transportation bonds: highway, street, and road projects

DIGEST: This bill prohibits the issuing or selling of high-speed rail (HSR) bonds upon enactment and redirects remaining high-speed rail bond proceeds to state freeways and highways and local streets and roads, upon voter approval.

ANALYSIS:

The California High-Speed Rail Authority (HSR) was established by legislation in 1996 (SB 1420, Kopp, Chapter 796) to direct the development and implementation of intercity high-speed rail service that is fully coordinated with other public transportation services. In 2008, California voters approved Proposition 1A, the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century (Prop. 1A), which authorized $9 billion in general obligation bonds for the high-speed rail project. Prop. 1A included a number of requirements the state must meet to access the bond funding for capital construction, including the identification of matching funds, the completion of a funding plan, and approval of required environmental clearance documents.

In 2009, the federal government augmented Prop. 1A bond funding with roughly $3.3 billion in funding from the American Recovery and Reinvestment Act and other federal funding programs. HSR committed to match these federal funds with approximately $2.3 billion in state funding.

Of the $9.5 billion appropriated thus far for high-speed rail, HSR spent $950 million through 2013-14, $388 million in 2014-15 and $968M in 2015-16. For 2016-17, HSRA plans to spend $1.744 billion: $158 million in Prop. 1A bond funds, $902 million in federal funds, and $685 million in Cap-and-Trade revenues.

Existing Law:

1) Establishes the California High-Speed Rail Authority (HSR) and vests with it the responsibility to develop and implement a high-speed rail system in California.

2) Authorizes the sale of $9 billion in general obligation bonds to partially fund the development and construction of California's high-speed rail system.

3) Authorizes the expenditure of an additional $950 million in general obligation bonds for capital projects on other passenger rail lines to provide connectivity to the high-speed rail system as well as for capacity enhancements and safety improvements to those lines.

4) Requires the HSR to complete and submit to the Legislature funding plans and financial analyses prior to requesting an appropriation of bond funds for eligible capital costs and prior to committing bond proceeds for expenditure for construction and real property and equipment acquisition.

This bill:

1) Prohibits the issuing or selling of any HSR bonds upon enactment of this bill.

2) Provides that HSR bonds that have been previously issued, sold, and appropriated may be continued to be used for HSR purposes.

3) Redirects unspent proceeds from high-speed rail bonds issued and sold prior to the effective date of this legislation to retire the debt incurred from issuance and sale of these bonds.

4) Directs the proceeds of remaining unissued bonds to repair and new construction projects on state highways and freeways (50%) and local streets and roads (50%).

5) Requires the Secretary of State to place a measure authorizing these provisions on the June 2018 primary election ballot.

COMMENTS:

1) *Author's Statement.* According to the author, "Today's High-Speed Rail project is not what voters approved in 2008. This proposed, massive transportation project could end up costing hundreds of billions of dollars and never be

completed. It is extremely concerning that Quentin Kopp (the co-author of the original High-Speed Rail legislation, former Senate Transportation Committee chairman and former chairman of the High-Speed Rail Authority) is now opposed to the project. Kopp stated, 'They have just mangled this project... It is the great train robbery... if they can get away with it.' Another former chairman of the Senate Transportation Committee, now Democrat Congressman Mark DeSaulnier, said High-Speed Rail, which is the largest public works project in Californian history, could ultimately cost taxpayers as much as $350 billion to complete. Having two former chairmen of the Senate Transportation Committee question the performance and truthfulness of those running the High-Speed Rail Authority is a serious wake-up call. Californians deserve the right to vote on whether to spend billions of dollars on High-Speed Rail, or spend that money on much-needed repairs of local roads and highways."

2) *Fulfilling the promise.* Proponents of high-speed rail suggest that the project still technically meets the promises made to voters in 2008. In addition, some advocates argue that the project is transformative and should be pursued regardless of a potentially divergent electorate. These advocates suggest that, while voters today may not approve the project as currently envisioned, when the system is finally running and all of the benefits are realized, Californians will be thankful the state continued to pursue it in the face of its many detractors. They point to the significant opposition to construction of the Bay Area Rapid Transit (BART) system in the 1960s, which today is an integral part of the Bay Area transportation network.

   Other supporters of high-speed rail argue that, despite the fact that today's plan may not fully live up to the vision presented to voters in 2008, the large influx of construction dollars and potential jobs created in the Central Valley are too important to risk losing should the voters defeat the project at the ballot. To that end, HSR reports in their 2017 Project Update Report that the Authority has contracted with 114 certified small and micro businesses throughout the state and has generated $1.11 billion in economic output in the Central Valley where HSR construction is ongoing. With this region suffering one of the worst unemployment rates in the country, the funds from this project are stimulating much-needed relief to the Central Valley's economy.

3) *Federal matching requirements.* Complicating the implementation of this bill is the fact that the federal government requires the state to match any federal funding expended on the project. According to the HSR 2017 Project Update Report, the HSR has secured $3.48 billion in federal funds. It is unclear whether the state, if it suddenly ceased to pursue the high-speed rail project, would be in a position to pay back the federal government for some, if not all,

of the federal funds thus far expended. If that became the case, it is not clear how the state would achieve repayment without access to the Prop. 1A bond funds.

4) *HSR moving forward.* Since the project's construction commenced in 2015 in the Central Valley, HSR now has over 119 miles of construction activity underway. This translates into bridges and structures being built, land being cleared, roads being upgraded, and Central Valley residents receiving well-paying employment opportunities.

   Over the past two years, HSR has released two major reports that have provided an update on the progress of the project's construction and a roadmap on how HSR envisions the project will move forward. First, the release of the 2016 Business Plan signaled a more concrete funding plan for the development of the initial operating segment (IOS). Second, the 2017 Project Update Report provided a thorough description of the construction that has occurred, the economic growth that has resulted from project construction, and further provides an overview of how HSR intends to manage future risks. It's important to note — HSR does in fact continue to face funding and legal challenges and their outcomes are unclear. However, the project is under construction and proceeding. Furthermore, the project's unsteady beginning is not without precedent among mega-projects; and while the project is not progressing as smoothly as hoped, it is progressing and is better off today than it was when the Legislature committed to the project. Thus, stopping the project now by redirecting the bonds will cause hundreds of millions of dollars of work and study to be wasted.

5) *Double Referral.* This bill has been double referred to the Senate Governance and Finance Committee.

RELATED LEGISLATION:

Many prior legislative attempts to reduce the amount of authorized indebtedness for the high-speed rail project have failed in each house:

SBX1 3 (Vidak, 2015) — similar to this bill, would have redirected high-speed rail bond proceeds to state freeways and highways, and local streets and roads, upon voter approval. *SBX1 3 failed passage in the Senate Transportation and Infrastructure Committee in the 1st Extraordinary Session.*

SB 901 (Vidak, 2014) — would have required the Secretary of State to place on the November 2014 general election ballot a referendum to prohibit the sale of additional high-speed rail bonds. It would also have authorized the net proceeds from outstanding bonds to be redirected, upon appropriation, to retirement of high-speed rail bond debt and would have prohibited expenditure of bond funds, or issuance of additional bonds, for high-speed rail until November 2014. *SB 901 failed passage in the Senate Transportation and Housing Committee.*

AB 1501 (Patterson, 2014) — would have prohibited HSRA from spending federal funds for which a state match is required unless state funding for the match is immediately available. *AB 1501 failed passage in the Assembly Transportation Committee.*

AB 2650 (Conway, 2014) — would have directed the Secretary of State to place on the November 2014 general election ballot a measure to prohibit further issuance and sale of any authorized bonds for high-speed rail, except for specified projects for which appropriations have already been made. It would also have redirected the proceeds of any outstanding bonds issued and sold to debt retirement, and reauthorized the issuance and sale of any unissued bonds for other transportation uses, upon legislative appropriation. *AB 2650 failed passage in the Assembly Transportation Committee.*

AB 842 (Donnelly, 2013) — would have prohibited the expenditure of state and federal funds for high-speed rail except as necessary to meet contractual commitments entered into before January 1, 2014. *AB 842 failed passage in the Assembly Transportation Committee.*

AB 1455 (Harkey, 2012) — would have reduced the amount of authorized indebtedness for HSRA to the amount contracted as of January 1, 2013 and excluded from these provisions indebtedness authorized for other rail purposes. *AB 1455 failed passage in the Assembly Transportation Committee.*

SB 22 (La Malfa, 2011) — would have reduced the amount of indebtedness authorized by Prop. 1A to the amount contracted as of January 1, 2012. *SB 22 failed passage in the Senate Transportation and Housing Committee.*

AB 76 (Harkey, 2011) — would have reduced the amount of authorized indebtedness for HSRA to the amount contracted as of January 1, 2012. *AB 76 failed passage in the Assembly Transportation Committee.*

AB 2121 (Harkey, 2010) — would have reduced the amount of general obligation debt authorized pursuant to Prop. 1A to the amount contracted by HSRA. It was

amended in the Assembly Transportation Committee to instead require HSRA to annually submit a six-year funding program and a project progress report to the appropriate policy and budget committees of the Legislature. *AB 2121 was passed by the Assembly, but died in the Senate Rules Committee.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, March 29, 2017.)

SUPPORT:

Citizens for California High-Speed Rail Accountability
Community Coalition on High-Speed Rail
DERAIL
Howard Jarvis Taxpayers Association
Tos Farms Inc.
One individual

OPPOSITION:

California Labor Federation.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	SB 415	**Hearing Date:**	4/4/2017
Author:	Vidak		
Version:	2/15/2017		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Manny Leon		

SUBJECT: High-speed rail: rights-of-way

DIGEST: This bill requires the High-Speed Rail Authority (HSRA) to sell real property within three years from the date of acquisition if HSRA has not commenced construction on that property within a three year period, as specified.

ANALYSIS:
The California High-Speed Rail Authority (HSRA) was established by legislation in 1996 (SB 1420, Kopp, Chapter 796) to direct the development and implementation of intercity high-speed rail service that is fully coordinated with other public transportation services. In 2008, California voters approved Proposition 1A, the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century (Prop. 1A), which authorized $9 billion in general obligation bonds for the high-speed rail project. Prop. 1A included a number of requirements the state must meet to access the bond funding for capital construction, including the identification of matching funds, the completion of a funding plan, and approval of required environmental clearance documents.

Existing law:

1) Establishes the HSRA and vests with it the responsibility to develop and implement a high-speed rail system in California.

2) Authorizes the sale of $9.95 billion in general obligation bonds for the development and construction of California's high-speed rail system, including the acquisition of real property and rights-of-way.

3) Authorizes the HSRA to sell or exchange real property determined to be no longer necessary for high-speed rail purposes and establishes a process for selling the real property.

4) Allows the proceeds from any property sold to be appropriated for use in the development, improvement, and maintenance of the high-speed rail system.

5) Requires HSRA, prior to selling previous acquired real property and interest therein, to send notification by certified mail to the last known owner of the property, at his or her last known address, to advise him or her that the property will be offered for sale.

6) Prohibits the HSRA from selling the property until at least 30 days after the notification has been sent.

This bill:

1) Requires HSRA to make a good faith effort to sell or exchange real property or an interest in real property acquired on or after January 1, 2018 within three years if construction on the property has not commenced within that three year period.

2) Requires HSRA to dispose of any real property acquired before January 1, 2018 on or before January 1, 2021 if construction has not commenced within that three year period.

3) Further specifies the abovementioned requirements also apply to property leased by HSRA as of January 1, 2018.

COMMENTS:

1) *Author's statement.* According to the author, "when the High-Speed Rail Authority was created in 1996, it was given similar rights-of-way as Caltrans. Unfortunately, as we saw in a 2012 State Auditor report, Caltrans wasted millions of dollars every year mismanaging properties it acquired long ago for the State Route 710 expansion project, which was never finished. As you drive through the Central Valley, you can see the same thing: properties claimed for the High-Speed Rail project sitting abandoned and unused. The High-Speed Rail Authority shouldn't be allowed to waste tens of millions of taxpayer dollars on land it will never use. This bill gives the Authority a three-year timeframe to either use it or lose it."

2) *Existing process.* Like other governmental agencies, HSRA attempts to purchase any necessary property related to project construction by offering the appraised fair market value of that property to the owner. If the transaction is unable to proceed in this way, the State Public Works Board (PWB), on behalf of HSRA, may use the state's eminent domain authority to acquire the property. Property acquisition processes, including eminent domain proceedings,

generally result in a settlement transferring the ownership of private property to a governmental entity for public use, typically at a justified and documented price based on sound business practices. Moreover, if at some point, after design and/or construction on each property has been completed, some portion of the property is determined to be no longer necessary for the project, existing law already provides HSRA the ability to release the unneeded part of the property or interest through sale, exchange or other means of transfer, ensuring that the property remains in productive use.

3) *A more costly process?* While the author aims to minimize wasting taxpayer dollars by requiring HSRA to sell its acquired property if not used within a specified timeframe, this proposal may ultimately be more costly for taxpayers. For example, acquiring major blocks of property for various parts of the project can be a complicated process and take several years to obtain. Thus, the arbitrary deadline established in this bill would require HSRA to sell acquired properties while potentially still in the process of purchasing surrounding properties. If this was to occur, HSRA would be forced to repurchase the property; in turn increasing cost to taxpayers through potentially higher property values and state employees performing the same work twice. Furthermore, in other instances, a property owner may hold out on selling the property to leverage a final price above fair market value understanding that HSRA is subject to selling surrounding properties if construction fails to commence within the timeline designated by this proposal. *The committee may wish to inquire how this proposal will be less costly to taxpayers when HSRA currently has the mechanisms to dispose of any excess or unnecessary property.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, March 29, 2017.)

SUPPORT:
Citizens for California High-Speed Rail Accountability
Community Coalition on High-Speed Rail
DERAIL
Howard Jarvis Taxpayers Association
Tos Farms Inc.
One individual

OPPOSITION:
None received.

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	SB 498	**Hearing Date:**	4/4/2017
Author:	Skinner		
Version:	3/28/2017 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Vehicle fleets: zero-emission vehicles

DIGEST: This bill requires the state Air Resources Board (ARB) to adopt zero-emission vehicle (ZEV) targets for vehicle fleets and requires the Department of General Services (DGS) to meet a 50% ZEV target for the state vehicle fleet by 2024-25.

ANALYSIS:

Executive Order B-16-2012, issued by Governor Brown in March 2012, sets a target of one million ZEVs on California's roads by 2020 and 1.5 million by 2025. The order also directs that at least 10% of state vehicle fleet purchases be zero-emission by 2015, increasing to at least 25% by 2020.

The ZEV Regulation (commonly known as the ZEV mandate) requires large volume and intermediate volume vehicle manufacturers that sell cars in California to produce ZEVS (such as battery electric and fuel cell vehicles), clean plug-in hybrids, clean hybrids, and clean gasoline engine vehicles with near-zero tailpipe emissions. In general, the ZEV regulation requires that ZEVs comprise 15% of new car sales by 2025. This target is intended to achieve the goal set by Executive Order B-16-2012.

The ZEV Action Plan, updated in October 2016, highlights priorities for ZEVs as well as actions to meet those priorities and build the state's ZEV market.

Existing law (SB 1275, De Leon, Chapter 530 of 2014) establishes the Charge Ahead Initiative at the state Air Resources Board (ARB) to provide incentives that increase the availability of ZEVs and near-ZEVs, particularly in disadvantaged low- and moderate-income communities. SB 1275 also sets a target of one million ZEVs and near-ZEVs by January 1, 2023.

Existing law (SB 350, De Leon, Chapter 547 of 2016) establishes a statewide policy of widespread electrification of the transportation sector. Among other provisions, SB 350 charges ARB with publishing a study by January 1, 2017, outlining the barriers faced by low-income consumers, including those in disadvantaged communities, to accessing ZEVs and near-ZEVs. The study will also include recommendations on how to reduce those barriers and increase access.

This bill:

1) Requires ARB, in consultation with stakeholders, to develop ZEV targets for vehicle fleets for 2021 and subsequent years. Provides that these targets apply to public sector and private sector motor vehicle fleets, including but not limited to school buses, transit motor vehicles, and delivery motor vehicles.

2) Requires ARB to approve the targets no later than January 1, 2020, at a public hearing held not less than 30 days after a hearing at which the board considers public testimony relating to the targets.

3) Requires ARB to make available to vehicle fleet owners, research and support to facilitate ZEV adoption, including but not limited to coordination among state, local, and federal government incentive programs.

4) Requires DGS, no later than fiscal year 2024-25, to ensure that at least 50% of light-duty vehicles purchased for the state vehicle fleet each fiscal year are ZEVs. Provides that this requirement does not include specified public safety vehicles.

COMMENTS:

1) *Purpose*. The author states that automobiles are responsible for over one-third of all pollution in California. Vehicles in fleets turn over much frequently than vehicles owned by individuals, so public and private fleets are an easy place to start cleaning up our transportation sector. This bill will encourage fleet owners to buy more ZEVs by helping them access funding and setting state goals for fleet turnover into cleaner technologies.

2) *Statewide ZEV goal progress.* According to the October 2016 update of the ZEV Action Plan, over 20 plug-in electric vehicles (PEVs) are now available in California; PEV sales are highest in the Los Angeles, San Diego, and San Francisco Bay Area regions. Hundreds of fuel cell electric vehicles are also now driving on California roads.

3) *Mandatory target for state vehicle fleet.* According to the October 2016 update of the ZEV Action Plan, state agencies fulfilled the directive in Executive Order B-16-2012 that 10% of state light-duty fleet purchases be ZEVs by 2015. For 2014-15, ZEVs accounted for 11.74% of the state's light-duty fleet purchases, exceeding the 10% goal, and agencies are on pace to meet the 25% goal for 2020. This bill would require DGS to reach a 50% goal by 2024-25, a dramatic increase over the existing 2020 goal. This bill does not include any extra funding to help DGS attain the goal, nor does it include any penalties for failing to achieve it.

4) *Voluntary targets for non-DGS fleets.* This bill requires ARB to develop targets for all public and private sector vehicle fleets. These targets appear to be voluntary on the part of fleet owners. This bill does not include any extra resources for ARB, does not direct ARB to monitor fleet owner compliance, and does not include any penalties for fleet owners who fail to achieve the targets. The author indicates that this bill is intended to help encourage fleet owners to accelerate ZEV adoption and to direct ARB to assist fleet owners in their efforts.

5) *Every fleet in California?* This bill applies to "public sector and private sector vehicle fleets, including, but not limited to, schoolbuses, transit motor vehicles, and delivery motor vehicles." Moving forward, the author may wish to consider more explicitly defining "vehicle fleets;" for example, whether this includes heavy-duty truck fleets.

6) *Double referral.* This bill has also been referred to the Environmental Quality Committee.

RELATED LEGISLATION:

AB 739 (Chau, 2017) — would require, by December 31, 2030, at least 30% of heavy-duty vehicles purchased by the state to be zero-emission. *This bill is scheduled to be heard on April 5th in the Assembly Committee on Accountability and Administrative Review.*

AB 1710 (Calderon, 2016) — would have required ARB to establish a comprehensive incentive program for the purchase of ZEVs or near-ZEVs and would have provided specified sales tax and personal income tax exemptions for such purchases. *This bill was held on the Assembly Appropriations Committee suspense file.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, March 29, 2017.)

SUPPORT:

NextGen California (sponsor)

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	SB 540	**Hearing Date:**	4/4/2017
Author:	Roth		
Version:	3/29/2017 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alison Hughes		

SUBJECT: Workforce Housing Opportunity Zone

DIGEST: This bill would permit a local government to create Workforce Housing Opportunity Zones.

ANALYSIS:

Existing law:

1) Defines "very low-income" as persons and families whose income does not exceed 50% AMI.

2) Defines "low-income" as persons and families whose income does not exceed 80% AMI.

3) Defines "moderate-income" as persons and families whose income does not exceed 120 percent of AMI.

4) Requires a locality to give public notice of a hearing whenever a person applies for a zoning variance, special use permit, conditional use permit, zoning ordinance amendment, or general or specific plan amendment.

5) Requires the board of zoning adjustment or zoning administrator to hear and decide applications for conditional uses or other permits when the zoning ordinance provides therefor and establishes criteria for determining those matters, and applications for variances from the terms of the zoning ordinance.

6) Requires localities to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policy objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing.

7) Requires the housing element to identify adequate sites for housing, including rental housing, factory-built housing, mobile homes, and emergency shelters and to make adequate provision for the existing and projected needs of all economic segments of the community.

8) Requires localities within the territory of a metropolitan planning organization (MPO) to revise their housing elements every eight years following the adoption of every other regional transportation plan. Localities in rural non-MPO regions must revise their housing elements every five years.

9) Permits localities, after the adoption of a general plan, to prepare specific plans for the systematic implementation of the general plan for all or part of the area covered by the general plan. A specific plan shall include a statement of the relationship to the general plan, and a text and a diagram or diagrams which specify all of the following in detail:

    a) The distribution, location, and extent of the uses of land, including open space, within the area covered by the plan.
    b) The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.
    c) Standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable.
    d) A program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out paragraphs (1), (2), and (3).

10) Requires, under the California Environmental Quality Act (CEQA), a lead agency to prepare or cause to be prepared and certify the completion of an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project would have a significant effect on the environment.

11) Requires localities, upon the approval of a general plan, to submit an annual report to the Office of Planning and Research (OPR) and the Department of

Housing and Community Development (HCD). The report shall contain the following:

a) The status of the general plan and progress in its implementation.
b) The progress in meeting its share of regional housing needs and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing.

This bill:

1) Defines "Workforce Housing Opportunity Zones" (WHOZ or zone) as an area of contiguous or noncontiguous parcels identified in the jurisdiction's housing element.

2) Defines "housing development" or "development" as any new or substantially rehabilitated residential dwelling units constructed within a WHOZ. A residential project may include commercial development limited to the first floor of the structure and occupy no more than 50% of the square foot area of the structure. A WHOZ must be consistent with the general use designation, density, and applicable policies specified in the sustainable communities strategy.

3) Permits the locality to establish a WHOZ by preparing an EIR to identify and mitigate, to the extent feasible, environmental impacts resulting from the establishment of the zone and by adopting a specific plan that shall include text and a diagram that specify, in detail, the following:

a) The distribution and location of a minimum of 100 units to a maximum of 1,500 residential dwelling units. A local government may not include more than 50% of the number of units in its RHNA allocation in a WHOZ. No more than 50% of the total units constructed or substantially rehabilitated in the zone will be sold or rented to persons and families above moderate-income.
b) The proposed distribution, location, and extent and intensity of major services (transportation, sewage, water, drainage, solid waste, disposal, energy).
c) The following mitigation measures will apply to all development constructed within the zone in addition to any and all mitigation measures identified in the EIR prepared for the specific plan:
    i. Traffic mitigation measures
    ii. Water quality and other public utility mitigation measures.

iii. Natural resource protection

d) Density ranges for multifamily housing for which the minimum densities shall not be less than those appropriate for lower income households, and a density range for single-family attached or detached housing for which minimum densities shall not be less than 10 units per acre.
e) Uniformly applied development policies or standards that will apply to all development within the zone.
f) Design review standards.

4) Requires the planning commission and the legislative body to each hold a public hearing prior to establishing the zone.

5) Prohibits a locality, for a period of five years, from denying a development that satisfies the requirements for the creation of a WHOZ, unless the local government finds that a physical condition on the site of the development that was not known at the time the specific plan was prepared would have a specific, adverse impact on the public health or safety, and there is no feasible method to mitigate or avoid the specific adverse impact without rendering the development unaffordable to low-, moderate, and middle-income households.

6) Waives the requirement for a local agency to prepare an EIR or negative declaration for a housing development that satisfies the following criteria:

a) The development is located on land within a WHOZ
b) The development is consistent with the specific plan adopted pursuant to this bill. If a development is not consistent with the elements and standards in the plan, the provisions in this bill shall not apply and an EIR or negative declaration will be required.
c) At least 30% of the total units constructed or substantially rehabilitated will be sold or rented to persons and families of moderate income, or persons and families or middle income. At least 15% of the total units shall be sold or rented to lower-income households and at least 5% will be restricted for very low-income households. Units available to very low-, low-, moderate-, or middle-income households shall contain sufficient legal commitments to ensure continued affordability for 55 years for rental units and 45 years for owner-occupied. For a city that includes its entire RHNA in the zone, the percentages of the total units constructed or substantially rehabilitated in the zone shall match the percentage in the income category of the localities regional housing needs allocation.
d) The development has incorporated each of the mitigation standards.

e) The development has incorporated each of the uniformly applied development standards and deemed applicable by the relevant jurisdiction.
f) The development complies with design review standards and deemed applicable by the relevant jurisdiction.
g) The development has incorporated each of the mitigation measures a part of the EIR for the specific plan and deemed applicable by the relevant jurisdiction.
h) A development affordable to persons and families whose income exceeds the income limit for persons and families of moderate income shall include no less than 10% of the units for lower income households, unless the locality has adopted a local ordinance that requires that greater than 10% of the units, in which case that ordinance applies.

7) Requires a locality to post a notice on its' web site when it has received an application for a housing development within the WHOZ and mailed or delivered within 10 days of receiving the application.

8) Requires the Department of Housing and Community Development (HCD) to establish a process by which a locality may submit an application to receive a no-interest loan to support its efforts to develop a specific plan and accompanying EIR within a WHOZ. Requires a locality to show as part of the loan application, to the satisfaction of HCD, the source of funding that will be used to repay the loan. A locality may include as one source of funding a fee imposed on a developer within the zone.

9) Permits the legislative body of the local government to impose a specific plan fee upon persons seeking government approvals within a zone. The fees shall be established to defray the cost of preparation, adoption, and administration of the plan. This fee shall be used to reimburse funds borrowed from HCD.

10) A locality shall include within its annual report to HCD the number of housing units approved within a zone during the previous year.

COMMENTS:

1) *Purpose of the bill.* According to the author, as the State and local governments have fought to recover from the Great Recession, we are now to some extent victims of our own success; with growing economic stability, California's already tight housing market has become increasingly competitive. There are a number of factors that have contributed to the housing shortage. Local

governments, either through insufficient planning, or facing forces out of their control like the free-market which largely dictates housing location and cost, have failed to ensure there is enough new affordable housing stock. Furthermore, the CEQA has reportedly been used as a barrier to housing projects even after they have been subject to lengthy public discussion and scrutiny, and been approved by local governments.

That is why this bill is critical to improving the quality of life of all Californians. This bill streamlines the approval process to spur housing construction by having cities identify where housing needs to be built and adopting a specific, up-front plan; and, conducting all important and necessary environmental reviews and public engagement. This bill ensures that a full and robust CEQA process is undertaken, with local governments holding open and transparent meetings where the public can engage and voice their opinions and concerns. This bill also ensures that local governments aren't able to alter a housing plan after it has been approved. Upon completion of this rigorous process, developers will have a five year window to deliver affordable housing that is consistent with the approved plan.

Under this bill, because the local government has fully conducted the necessary environmental reviews, no project-specific additional environmental reviews would be needed, allowing for housing developments within these planned areas to proceed in an expedited manner. A project must be approved or rejected within 90 days of a submitted application. While I am proud to have co-authored the 2016 No Place Like Home Initiative to prevent homelessness among our neediest residents, that was simply a first step to a much larger problem. This housing problem will not be solved by any one piece of legislation; rather, it will take a combination of other proposals pending in the Legislature, including affordable housing funding measures.

2) *What does this bill do?* This bill would permit a locality to establish a WHOZ by preparing an EIR pursuant to CEQA and adopting a specific plan that is required to include specified information. For the next five years, absent unforeseen environmental conditions, a locality may not deny a development that meets the mitigation requirements under this bill, and is located within the WHOZ. In effect, this bill would eliminate project-specific environmental review, which could allow for housing developments within the WHOZ to proceed in an expedited manner.

3) *Maximum/minimum housing units' requirements.* This bill requires that within a WHOZ, the locality shall identify the distribution and location of a minimum

of 100 units to a maximum of 1,500 residential dwelling units. No more than 50% of the RHNA shall be within the zone.

According to the author, the purpose of this bill is to streamline housing, which could mean a city streamlines all of its affordable housing. This bill allows for multiple zones within a city, therefore it is likely that streamlined units will be in several locations. Also, this bill doesn't alter how a city identifies where to locate affordable housing.

It is not clear from where the proposed maximum and minimum numbers in this bill came, but the sponsors state that these numbers attempt to establish a reasonable range of residential construction that would be subject to this new process. Part of the issue is that this data is not widely available. For example, in 2015 only 46% of localities submitted the "required" annual report that measures the progress of meeting regional housing needs. Going forward, the author may wish to consider reviewing RHNA statewide, to the extent possible, to review these numbers and determine if there are more appropriate requirements for a WHOZ.

4) *Affordable housing requirements.* Within a WHOZ, at least 30% of the total units constructed or substantially rehabilitated in the zone must be sold or rented to moderate- or middle-income persons or families; at least 15% must be sold or rented to lower-income persons or families; and at least 5% must be restricted to very-low income persons or families. No more than 50% of the total units constructed or substantially rehabilitated may be sold or rented to persons or families of above moderate- income. According to the sponsors, these percentages were proposed following discussions around the creation of Community Revitalization Investment Authorities. Additionally, a development within the WHOZ that is affordable to persons above moderate income shall have no less than 10% of the units available for lower-income households, unless the locality has adopted a local ordinance is greater than 10%, in which case the local ordinance applies.

5) *Density requirement.* According to the author, this bill intends to focus on streamlining the housing approval process for workforce and affordable housing in areas close to jobs and transit and conform to California's greenhouse gas reduction laws. The bill, however, sets the lot density at 10, which is arguably low. For example, 20 units per acre would permit single-family construction. Going forward, the author may wish to consider increasing the minimum lot density.

6) *Tracking housing construction.* Under existing law, localities are required to submit an annual report to HCD stating the progress in meeting its share of regional housing needs and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing. This bill would require the locality to also include in that report the number of housing units approved within a WHOZ for the prior year. As noted above, most localities do not submit their "required" annual report. Going forward, the author may wish to consider imposing incentives or penalties for locals to submit the report.

7) *Revolving loan program.* This bill would permit local jurisdictions to apply for a no-interest loan to support efforts to develop the specific plan and EIR within a WHOZ. The application to HCD must state the repayment source. The local government may impose fees, such as developer fees, to recover costs.

8) *Triple-referral.* This bill was also referred to the Senate Governance and Finance Committee and the Senate Environmental Quality Committee.

RELATED LEGISLATION:

SB 35 (Wiener, 2017) — creates a streamlined, ministerial approval process for infill developments in localities that have failed to meet their regional housing needs assessment numbers.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, March 29, 2017.)

SUPPORT:

League of California Cities (sponsor)
City of Adelanto
City of Alameda
City of Chino Hills
City of Cloverdale
City of Dublin
City of Eureka
City of Fremont
City of Goleta
City of Hesperia
City of Hillsborough
City of Indian Wells

City of Laguna Hills
City of Lake Elsinore
City of Lakeport
City of Lodi
City of Montclair
City of Pismo Beach
City of Thousand Oaks
City of Walnut Creek
Marin County Council of Mayors and Council Members
Mayor's and Councilmembers' Association of Sonoma County
Riverside County Division of the League of California Cities

OPPOSITION:

None received.

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SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	SB 587	**Hearing Date:**	4/4/2017
Author:	Atkins		
Version:	2/17/2017		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Randy Chinn		

SUBJECT: Emergency vehicles: blue warning lights

DIGEST: This bill authorizes probation officers to display a blue warning light on their authorized emergency vehicles if the officer completes an emergency vehicle operations course certified by the Commission on Peace Officer Standards and Training.

ANALYSIS:

Existing law:

Authorizes peace officers, as defined, in the performance of their duties, to display a steady or flashing blue warning light on their authorized emergency vehicle.

This bill:

Authorizes probation officers, in the performance of their duties, to display a steady or flashing blue warning light on their authorized emergency vehicle.

COMMENTS:

1) *Author's Statement.* Although probation peace officers are authorized to display red, white, and yellow lights, current law does not authorize them to display emergency blue warning lights on authorized emergency vehicles. This is a critical gap in officer safety and emergency response. Probation officers apprehend and transport probationers and persons arrested for new crimes in situations in which a blue warning light could be used to alert other officers and the public to their presence. Probation peace officers also are called upon for assistance by other law enforcement agencies during emergencies but cannot display blue warning lights to alert those officers on the scene. Without blue warning lights on probation emergency vehicles, other local law enforcement

agencies are less likely to recognize, assist and support probation peace officers in the performance of these many critical duties.

2) *Emergency Vehicles.* There were initial concerns that this bill would allow probation officers to drive without regard to traffic controls in an emergency, but that does not seem to be the case. Vehicles driven by probation officers are defined as emergency vehicles. These vehicles are authorized to display flashing white and amber lights and, under current law, may operate without regard to traffic controls when using a siren and red light when the vehicle is being driven in response to an emergency call, while engaged in rescue operations, or being used in the immediate pursuit of a suspect. Often these vehicles are unmarked.

   These types of pursuits can be dangerous to the public. California Highway Patrol (CHP) policy discourages unmarked cars from driving under flashing lights and siren because those cars aren't as recognizable to the public. The sponsors of the bill, the State Coalition of Probation Officers, advise that while they are authorized to drive under Code 3, they rarely do so because of public safety concerns.

3) *Enlightened.* This bill authorizes probation officers to display a blue warning light. The author believes that this light will help identify probation officers and their vehicles as peace officers to the public and other law enforcement officers. This is necessary and useful because probation officers are more prevalent and are involved in a more hazardous array of incidents, according to supporters.

4) *Opposition.* Opponents are concerned that a proliferation of unmarked vehicles with blue lights will confuse the public, who associate blue lights with emergency vehicles. If this bill were to become law, an additional 2000-4000 probation vehicles would be eligible for the blue light.

5) *Color Blind.* Having several different colors of lights used on emergency vehicles could be confusing. Arguably, most members of the public would react to vehicles with flashing lights with caution, regardless of their color (white, amber, red, or blue). According to the sponsor, that is not the case; rather, they contend that drivers will gravitate toward red lights, but not towards blue.

6) *Double-referral.* This bill is double referred to the Senate Public Safety Committee.

RELATED LEGISLATION:

AB 2224 (Achadjian, 2016) — This bill authorizes probation officers to display a blue warning light on their authorized emergency vehicles if the officer completes an emergency vehicle operations course certified by the Commission on Peace Officer Standards and Training. This bill was never heard.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, March 29.)

SUPPORT:

Association for Los Angeles Deputy Sheriffs
Association of Deputy District Attorneys
California Association of Code Enforcement officers
California College and university Police Chiefs Association
California Narcotic Officers Association
Los Angeles County Professional Peace Officers Association
Los Angeles Deputy Probation Officers Union
Los Angeles Police Protective league
Orange County Employees Association
Riverside Sheriffs Association\
Sacramento County Probation Association
State Coalition of Probation Organizations

OPPOSITION:

California Police Chiefs Association, Inc.

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SENATE COMMITTEE ON TRANSPORTATION AND HOUSING
Senator Jim Beall, Chair
2017 - 2018 Regular

Bill No:	SB 699	**Hearing Date:**	4/4/2017
Author:	Galgiani		
Version:	2/17/2017		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Manny Leon		

SUBJECT: Vehicles: removal and impoundment

DIGEST: This bill makes it a crime to engage in a speed contest or exhibition of speed (otherwise known as a "sideshow") in a parking facility. This bill further allows a peace officer to submit an affidavit to the court that a speed contest or reckless driving violation occurred within a specified time period.

ANALYSIS:

Existing law:

1) Defines speed contests as a motor vehicle race against another vehicle, a clock, or other timing device.

2) Sets the current penalty for conviction of street racing at imprisonment in county jail for between 24 hours and 90 days, or a fine between $355 and $1,000, or both. Violators are required to perform 40 hours of community service. The court can order the suspension of driving privileges between 90 days and six months. These punishments increase for subsequent offenses or in cases where bodily injury to another person has occurred.

3) States that if a person is convicted of a street racing violation, and the vehicle used during the violation is registered to the person, the vehicle may be impounded at the registered owner's expense for between one and 30 days.

4) Provides that any person who drives any vehicle upon a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving. Further specifies that a person who drives any vehicle in any off-street parking facility in a willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

5) Authorizes a magistrate to issue a warrant or provide a peace officer with the authority to immediately seize a vehicle if the peace officer has provided a valid affidavit that the vehicle was involved in a speed contest or reckless driving in the presence of a peace officer.

This bill:

1) Proposes to expand the crime of engaging in a motor vehicle speed contest or exhibition of speed to apply to a parking facility.

2) Allows a peace officer to submit an affidavit to the court establishing reasonable cause that a speed contest or sideshow occurred based on evidence provided by an officer within 364 days of the violation.

COMMENTS:

1) *Author's statement.* "The recent proliferation of sideshows has created a unique threat to public safety. These vehicle exhibitions can result in temporary road closures and increased traffic in addition to a number of public safety concerns. Senate Bill 699 will help combat this dangerous activity by increasing the usage of video evidence to impound vehicles used in sideshows."

2) *What is a sideshow?* A sideshow is where one or a number of vehicles engage in or are involved in illegal reckless driving activities. Increasing in popularity, sideshows involves participants setting up blockades on a highway with drivers engaging in dangerous driving behavior including "spinning donuts" or the "burning" of tires. Due to their growing popularity and increased crackdowns by law enforcement, this community has coordinated sideshows beyond local streets and highways to empty parking facilities. Currently law enforcement has the ability to impound a vehicle engaging in this illegal activity; however existing law limits law enforcement's ability to seize and impound these vehicles by requiring a law enforcement officer to be present when a sideshow or speed contest is taking place.

   Since 2015, numerous news reports from the Bay Area have noted that illegal street racing has been prevalent in cities — with numerous incidents of illegal racing occurring from Oakland down to San Jose. Traffic data collected by the California Highway Patrol (CHP) show that over the last two years, CHP has issued 5,419 citations (2,943 in 2015 and 2,476 in 2016) resulting in convictions for engaging in, aiding, or abetting exhibition of speed on a highway.

3) *Impound.* While illegal street racing has become a known problem amongst law enforcement officials, research has found that vehicle impoundments are an effective public safety tool that has also been proven to change driver behavior. According to the U.S. Department of Justice (DOJ), impounding and/or forfeiting vehicles used in street racing has been found to be an effective deterrent due to the threat of loss of valuable property and means to race. DOJ states that this response works best when the ordinance is widely publicized to deter illegal racing and an impound fee is assessed in order for the driver to reclaim the vehicle.

4) *Technical amendment.* Amongst other provisions, this bill would make it a crime to engage in a sideshow in a parking facility. However, existing law already allows a peace officer to seize and impound a vehicle engaging in a speed contest or a sideshow in a parking facility. In order to avoid duplicative statutes, the author has agreed to amend the bill to remove Section 2 in the next policy committee. With this technical amendment, the remaining portion of this bill addresses a peace officer's ability to use online evidence posted within 364 days when submitting an affidavit to the court which will be considered in the Senate Public Safety Committee if this bill is passed.

5) *Double Referral.* This bill is also referred to the Senate Public Safety Committee.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, March 29, 2017.)

SUPPORT:

California Police Chief's Association (Co-sponsor)
California State Sheriff's Association
City of Oakland (Co-sponsor)

OPPOSITION:

None received.

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