
SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2021 - 2022 Regular

Bill No: SB 837 **Hearing Date:** 3/22/2022
Author: Umberg
Version: 1/6/2022
Urgency: No **Fiscal:** Yes
Consultant: Katie Bonin

SUBJECT: Driver's licenses: veteran designation.

DIGEST: This bill repeals the \$5 fee a veteran is required to pay in order to have the word "VETERAN" printed on their driver's license or identification card as per existing law.

ANALYSIS:

Existing law:

- 1) Requires the Department of Motor Vehicles (DMV) to issue a driver's license to an applicant when the DMV determines that the applicant is lawfully entitled to a license.
- 2) Allows an in-person applicant for a driver's license or identification card to request the word "VETERAN" be printed on the face of the driver's license or identification card, subject to certain requirements, including verification of veteran status and payment of a \$5 fee, which the department is authorized to increase by regulation up to \$15.
- 3) Prohibits a fee from being charged for the request if made by a person who has been determined to have a current income level that meets the eligibility requirements for specified assistance programs, or a person who can verify their status as a homeless person, in accordance with specified provisions.

This bill repeals the \$5 fee a veteran is required to pay to have their veteran status designated on their driver's license or identification card.

COMMENTS:

- 1) *Purpose.* According to the author, “SB 837 will take away the current fee the DMV charges to designate a veteran’s status on their driver’s license or identification card. California needs to make veteran’s resources more accessible. There are still many veterans in the state who are not aware that they may be eligible for benefits. By making this designation more accessible and affordable, we can ensure that more veterans will become connected with their benefits. California has historically fallen short on our promises to improve veterans’ access to programs. For example, California was the second-to-last state in the nation to allow for a veterans’ designation on their driver’s license. Removing this nominal charge will only make it easier for veterans to get this designation on their licenses and increase their awareness and accessibility to veterans’ benefits.”
- 2) *Connecting veterans to benefits.* Allowing veterans to obtain a driver’s license or identification card with a veteran designation enables veterans to swiftly and efficiently identify themselves and access services and benefits they are entitled to, including housing, health, employment, and educational aid. Removing the five dollar fee may further incentivize veterans to include the designation on their driver’s license or identification cards and permit them to access the benefits they are entitled to more easily and more often.

Likewise, a key goal behind the legislation is to induce veterans to come into their local county veteran’s service office (CVSO), which is required to verify their veteran status before they go into the DMV to obtain the designation. The CVSO plays a critical role in connecting the veterans to all federal, state, and local benefits for which they are eligible.

- 3) *Loss of DMV Revenue.* According to the DMV, from implementation on November 11, 2015 to January 1, 2022, the DMV has issued 243,754 veteran designations. This means that 30,000-35,000 veterans apply for the designation per year. On average, the DMV collects \$150,000-175,000 from the \$5 veteran fee which goes into the Motor Vehicle Account (MVA). The MVA pays for the DMV and the California Highway Patrol (CHP) and is poised to go into a deficit. The DMV has expressed that because the designation is a one-time fee and there is no fee upon renewal, the annual volume and associated revenue will decrease over time with or without the removal of the \$5 fee.

RELATED/PREVIOUS LEGISLATION:

AB 1151 (Smith, 2021) — This bill would have removed the one-time \$5 fee to a person applying for a driver's license or identification card with a veteran designation after July 1, 2022. *This bill was held in the Assembly Appropriations Committee.*

AB 2613 (Oberholte, 2020) — This bill would have removed the one-time \$5 veterans are required to pay. *This bill died in the Assembly Transportation Committee.*

AB 21 (Oberholte, 2019) — This bill would have removed the one-time \$5 fee to a person applying for a driver's license or identification card with a veteran designation after July 1, 2020. *This bill was held in the Assembly Appropriations Committee.*

AB 935 (Frazier, Chapter 644 of 2014) — This bill required 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: No

POSITIONS: (Communicated to the committee before noon on Wednesday, March 16, 2022.)

SUPPORT:

California Association of County Veterans Service Officers (sponsor)

OPPOSITION:

None received.

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SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2021 - 2022 Regular

Bill No: SB 894 **Hearing Date:** 3/22/2022
Author: Jones
Version: 1/31/2022
Urgency: No **Fiscal:** Yes
Consultant: Randy Chinn

SUBJECT: Off-highway vehicles

DIGEST: This bill establishes a process for registering and identifying certain Off-Highway Vehicles which do not comply with air emission regulations.

ANALYSIS:

Existing law:

- 1) Requires motor vehicles that are unregistered because they are used exclusively off-road to be issued and display an identification plate obtained from the Department of Motor Vehicles (DMV), with certain exceptions, including certain Off-Highway Vehicles (OHVs) used in competitive events upon closed courses.
- 2) Requires DMV, upon identifying an OHV subject to identification, to issue to the owner a suitable identification plate that is capable of being attached to the vehicle, as specified. Further specifies a violation of the Vehicle Code is punishable as an infraction.
- 3) Requires all OHV identification plates to be displayed in a specified manner, including on the left fork leg of a motorcycle, either horizontal or vertical, and visible from the left side of the motorcycle.
- 4) Imposes, generally, specified fees on off-highway motor vehicles, including, among others, a service fee of \$7 for the issuance or renewal of identification for off-highway motor vehicles and a special fee of \$33 paid concurrently with the service fee. The current total fees for OHV registration are \$52.
- 5) Requires certain fees associated with OHVs to be deposited in the OHV Trust Fund, and requires moneys in the fund to be allocated for specified purposes related to off-highway recreation. Requires other fees to be deposited in the Motor Vehicle Account and allocated for CHP enforcement.

- 6) Requires all OHVs to meet specified requirements, including, but not limited to, a requirement that the vehicle be equipped with a spark arrester maintained in effective working order. Certain OHVs being operated in an organized racing or competitive event upon a closed course are exempt from these requirements.

California Air Resources Board (CARB) regulations

- 7) Establishes a green sticker program whereby OHVs which meet air emissions standards can operate year round.
- 8) Establishes a red sticker program whereby OHVs which do not meet air emissions standards can only operate during riding season as determined by CARB. By the 2022 model year, new OHVs must either meet air emissions standards or may only be used in competitive, sanctioned events; no new red stickers will be issued. Beginning in 2025, pre-2022 model year red sticker OHVs may operate year round, rather than be limited to the riding season.

Federal law allows the use of OHVs which are not compliant with emission regulations if they are used solely for competition.

This bill:

- 1) Establishes a program for registration of model year 2022 and newer OHVs used solely for competition off public highways. The program includes specified registration fees, most of which will be deposited in the Off-Highway Vehicle Trust Fund and used exclusively for the costs of the Department of Parks and Recreation related to OHV activities.
- 2) Provides that competition OHVs shall have a muffler and spark arrestor when operating on public lands.

COMMENTS:

- 1) *Author's Statement.* This bill will create an OHV Competition Sticker registration program for models 2022 and newer to replace the terminated Red Sticker registration, restoring the registration requirement for all OHVs when operated on public lands. Unlike the Red Sticker program which allowed competition OHVs to ride freely on public lands during certain times of the year, the Competition Sticker program will further restrict these vehicles' use to closed courses only in accordance with the federal Clean Air Act. SB 894 will ensure revenue streams continue for critical environmental work, as well as

continuing all the advantages of identification that come with the program—including allowing law enforcement to trace these types of vehicles for public safety purposes. The economic impacts of OHV competitions are significant to rural communities, and this bill will help communities with their economic recovery during these challenging times.

- 2) *Red sticker program.* As a means to address air quality and greenhouse gas compliance issues, CARB established regulations to limit the use of OHVs that do not meet emission standards applicable for California OHV riding areas. Upon establishment of the regulations, CARB and DMV worked together to develop criteria for identifying these non-compliant OHVs. Currently, OHVs are registered by DMV and are issued a red or green sticker:

Green stickers are issued for all California OHVs year model 2002 and older, including those that were previously issued a red sticker, and to 2003 and newer complying vehicles. OHVs with green stickers can be used year round at all California OHV riding areas.

Red stickers are issued to 2003-2021 model year OHVs that are not certified to California OHV emission standards. OHVs with red stickers can use California OHV riding areas only for seasonal use as determined by each OHV recreational park. CARB notes that it first adopted OHV exhaust standards in 1994, in part to reduce emissions from high emitting two-stroke OHVs. In 1998, after extensive collaboration with stakeholders, the red sticker program was created.

For red sticker OHVs, permission to operate is based on a seasonal calendar that varies for the nine state OHV recreational parks and many sections of federal parklands. While some parks allow red sticker OHVs to operate year round, others enforce strict periods of operation. During peak ozone season, the red sticker limits operation at certain off-highway recreational vehicle parks located in non-attainment areas.

- 3) *Red Sticker Sunset.* In July 2013, CARB began conducting an assessment of the red sticker program. CARB subsequently worked closely with industry stakeholders and other state agencies to develop regulatory amendments in 2019 to end the Red Sticker Program in 2021. CARB notes in its information digest pertaining to the 2019 amendments, “The red sticker program was envisioned as a temporary measure to provide stability in the market while manufacturers developed a full range of OHRV that complied with California’s emissions standards. This temporary measure has now been in effect for more than twenty years, and the majority of off-highway motorcycles (OHMC) sold

in California are red sticker vehicles with no emissions controls.”

- 4) *End of an Era.* According to the author, the expiration of CARB’s red sticker program has created confusion about which OHVs can be registered and reduced revenue for OHV programs. This bill is intended to clarify the rules by creating a new OHV competition sticker program with specified fees. Beginning in 2024 those fees are a \$9 fee payable to the DMV for the issuance or renewal of specified vehicle identification and a fee of \$42 for the Off Highway Vehicle Trust Fund.
- 5) *Looks Familiar.* This bill is similar to SB 227 (Jones) from last year, which passed out of this committee 12-2 and ultimately was held on the Assembly Appropriations Suspense file. The final version of SB 227, which is substantially the same as this bill, was amended to remove the opposition of the environmental groups who opposed the bill in this committee. These amendments deleted the requirement for the public land managers of the OHV parks to establish a schedule when non-compliant OHVs could practice. With this amendment the bill does not address when OHVs with competition stickers may operate, an issue subject to federal law. The committee has checked with the opposition to SB 227 and they are also unopposed to this bill.
- 6) *Double Referral.* This bill is double referred to the Senate Natural Resources and Water Committee.

RELATED LEGISLATION:

SB 227 (Jones, 2021) – Similar to this bill. *The bill was held in the Assembly Appropriations Committee.*

SB 1024 (Jones, 2019) – Similar to this bill. *The bill failed passage in the Senate on Concurrence*

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

POSITIONS: (Communicated to the committee before noon on Wednesday, March 16, 2022.)

SUPPORT:

American Motorcyclist Association
California Wilderness Coalition (CALWILD)
Cnda-california Motorcycle Dealers Association

Defenders of Wildlife
District 36 Motorcycle Sports Committee, INC. (ama D36)
Motorcycle Industry Council
Off Road Vehicle Legislative Coalition
Sacramento Pacific International Trials Society
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OPPOSITION:

None received

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SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2021 - 2022 Regular

Bill No: SB 942 **Hearing Date:** 3/22/2022
Author: Newman
Version: 2/8/2022
Urgency: No **Fiscal:** Yes
Consultant: Melissa White

SUBJECT: Low Carbon Transit Operations Program: free or reduced fare transit program

DIGEST: This bill allows transit agencies that use Low Carbon Transit Operations Program (LCTOP) funding for a free or reduced fare transit program that demonstrated compliance with the requirements of LCTOP in the initial application, including greenhouse gas (GHG) emissions reductions, to continue to use LCTOP funding to maintain the same free or reduced fare transit program on an ongoing basis, without any restriction on length of time.

ANALYSIS:

Existing law:

- 1) Requires the California Air Resources Board (ARB), pursuant to AB 32 (Núñez), Chapter 488, Statutes of 2006, to develop a plan of how to reduce statewide greenhouse gas (GHG) emissions to 1990 levels by 2020. Under AB 32, ARB is authorized to include the use of market-based mechanisms to comply with these regulations (cap and trade).
- 2) Requires ARB, pursuant to SB 32 (Pavley), Chapter 249, Statutes of 2016, ensure that statewide GHG emissions are reduced to at least 40% below the statewide GHG limit no later than December 31, 2030.
- 3) Establishes the greenhouse gas reduction fund (GGRF) in the State Treasury and requires all money collected pursuant to cap and trade, with limited exceptions, be deposited into the fund and makes the GGRF funds available for appropriation by the Legislature.
- 4) Requires, pursuant to SB 535 (de León), Chapter 830, Statutes of 2012, that a minimum of 25% of the monies available in GGRF be used to benefit disadvantaged communities (DAC)s, as defined.

- 5) Requires, pursuant to AB 1550 (Gomez), Chapter 369, Statutes of 2016, GGRF investments allocated to DACs to be allocated as follows:
 - a) A minimum of 25% to projects that are located within and benefiting individuals living in DACs.
 - b) An additional 5% (minimum) to projects benefiting low income households or located within the boundaries of, and benefiting individuals living in, low-income communities.
 - c) An additional 5% (minimum) to projects benefiting low-income households outside of but within 1/2 mile of a DAC, or to projects located within the boundaries of, and benefiting individuals living in, low-income communities that are outside of, but within 1/2 mile of, DACs.
- 6) Establishes the Transit Intercity Rail Capital Program (TIRCP), administered by the California State Transportation Agency, and continuously appropriates 10% of GGRF fund proceeds to the program for transformative transit capital projects.
- 7) Establishes LCTOP, administered by the California Department of Transportation (Caltrans), and continuously appropriates 5% of GGRF fund proceeds to the program for transit operating and capital assistance to reduce GHG emissions and improve mobility, with a priority on serving DACs.
- 8) Requires LCTOP funding for transit operations and capital assistance to meet any of the following requirements:
 - a) Directly enhance or expand transit service by supporting new or expanded bus or rail services, new or expanded water-borne transit, or expanded intermodal transit facilities, and may include equipment acquisition, fueling, and maintenance, and other costs to operate those services or facilities;
 - b) Operations that increase transit mode share; or,
 - c) Purchase of zero-emission buses, including electric buses, and the installation of the necessary equipment and infrastructure to operate and support these zero-emission buses.
- 9) Requires each eligible transit agency, prior to receiving funding from LCTOP, to submit to Caltrans a list of proposed expenditures and any documentation required by guidelines.

- 10) Requires Caltrans, in coordination with ARB, to determine if the proposed list of expenditures submitted by transit agencies meets requirements and program guidelines, including:
 - a) The recipient transit agency must demonstrate that each expenditure reduces GHG emissions; and,
 - b) The recipient transit agency must demonstrate that each expenditure does not supplant another source of funds.
- 11) Requires that, after Caltrans determines the expenditures proposed by the transit agency will meet the requirements of the program, funding for LCTOP is allocated by the Controller through the State Transit Assistance (STA) formula with 50% being allocated according to population and 50% being allocated according to transit operator revenues from the prior fiscal year.
- 12) Requires each transit agency receiving funding from LCTOP whose service area includes DACs, as defined by CalEnviroScreen, must expend at least 50% of the funds on projects or services that benefit those communities.
- 13) Waives this requirement and deems that all applicable low-income requirements, as defined, are met if the funding provided is expended on any of the following:
 - a) New or expanded transit service that connects with transit service serving disadvantaged communities or in low income communities, as defined;
 - b) Transit fare subsidies and network and fare integration technology improvements, including but not limited to, discounted or free student transit passes; or,
 - c) The purchase of zero emission transit buses and supporting infrastructure.
- 13) Clarifies that a recipient transit agency is not required to provide individual rider data to Caltrans or ARB.
- 14) Allows a transit agency to use program funds for the same operational service or program in any subsequent fiscal year if the agency can demonstrate that reductions in GHG emissions can be realized.

- 15) Requires Caltrans, in consultation with ARB, to develop guidelines, methodologies, and reporting requirements for the program.
- 16) Requires transit agencies to provide annual reports to Caltrans on use of the funds from the program.
- 17) Allows transit agencies some flexibilities to administer the funds, including retaining its annual share for up to four years for a large expenditure; loaning or transferring its share to another transit agency within the same region; applying to Caltrans to reassign any project savings to another expenditure; and applying to Caltrans for a letter of no prejudice with specified conditions.
- 18) Requires Caltrans and the recipient transit agencies to comply with guidelines developed by ARB regarding DACs.
- 19) Requires that recipient transit agencies comply with all applicable legal requirements, including the California Environmental Equity Act and civil rights and environmental justice.
- 20) Requires transit agencies to include verification of recipient and expenditure of funds as part of the regular audit required by the Transportation Development Act (TDA).

This bill:

- 1) Allows transit agencies that use LCTOP funding for a free or reduced fare transit program that demonstrated compliance with the requirements of LCTOP in their initial application, including GHG emissions reductions, to continue to use LCTOP funding to maintain the same free or reduced fare transit program on an ongoing basis, without any restriction on length of time.
- 2) Waives some annual requirements, including:
 - a) Demonstrating compliance with the initial application requirements, and
 - b) Submitting a list of proposed expenditures.

COMMENTS:

- 1) *Purpose.* According to the author, “public transit is a critical component of California’s fight to reduce harmful emissions. Subsidized youth ridership

transit programs are a proven tool to expand access to public transit and create lifelong riders. Transit ridership has been hit hard by the pandemic, therefore, public transit providers need a myriad of tools to help in the recovery of their systems. SB 942 provides flexibility for transit agencies throughout the state to use existing cap and trade funds to rebuild ridership and create transit riders for life.”

- 2) *Transit and Cap and Trade.* LCTOP was created by SB 862 (Committee on Budget and Fiscal Review), Chapter 862, Statutes of 2014, as part of a comprehensive package of programs to target GHG emissions reductions in California using funds generated by the state’s cap and trade program. These programs include affordable housing and sustainable communities, transit and intercity rail capital and operating projects (TIRCP), and high-speed rail. LCTOP is administered by Caltrans and is continuously appropriated at 5% of GGRF funds. For the 2020-21 fiscal year, \$82 million is proposed to be allocated for LCTOP.

Specifically, LCTOP was created to provide operating and capital assistance for transit agencies to reduce GHG emissions and improve mobility, with a priority on serving DACs. Overall, LCTOP can fund projects that directly enhance or expand transit service by supporting new or expanded bus or rail services, water borne transit, or intermodal transit facilities; operational expenditures that increase transit mode share – shift new riders out of their cars; or the purchase of zero emission buses, including the installation of the necessary equipment and infrastructure to operate and support the buses.

All projects must reduce GHG emissions and must not supplant other agency funds. Prior to receiving an allocation, which is distributed by the State Controller following the STA formula, eligible transit agencies must submit a description of their proposed expenditures and demonstrate how each expenditure will reduce GHG emissions.

Additionally, as LCTOP is funded with GGRF monies, transit agencies must comply with requirements to expend funds to the benefit of “priority populations,” which include both DAC communities, as defined by CalEnviroScreen, and low income communities and households. Specifically, according to the LCTOP enabling legislation, transit agencies whose service area includes a DAC must spend at least 50% of the total monies received by the agency on projects that benefit DACs.

- 3) *LCTOP Streamlining.* Since the implementation of LCTOP, numerous pieces of legislation have been pursued to streamline the program and make it more

flexible and usable for transit agencies. Specifically, SB 824 (Beall, Chapter 479, Statutes of 2016), recast many of the provisions of LCTOP to authorize certain financial options for projects, such as banking funds for the future purchase of a zero-emission bus.

Additionally, SB 1119 (Beall, Chapter 606, Statutes of 2018), streamlined the priority communities requirements, both DAC and low income communities and households. SB 1119 waived the DAC requirements and deemed that transit agencies have met the low income requirements if the agency spends LCTOP funds on 1) new or expanded transit service that connects with transit service serving DAC or low income communities; 2) transit fare subsidies and network and fare integration technology improvements, including, but not limited to, discounted or free student transit passes; and 3) the purchase of zero-emission transit buses and supporting infrastructure. Caltrans, through their guidelines for the program, still encourage transit agencies to continue to document the “direct, meaningful, and assured” benefits to priority populations even if they qualify for the streamlining.

- 4) *Free or reduced fare transit is popular, but can we keep it going?* LCTOP is unique among cap-and-trade funded programs as funding is allocated directly to the recipient agencies by formula. Barring drastic swings in the cap-and-trade market, transit agencies have some predictability in the level of funding they will receive year to year. As noted, LCTOP can fund a variety of both operational and capital projects, but it is more widely seen as an operations program than its cap-and-trade counterpart TIRCP, which is grant based and funds larger capital projects. Transit agencies have a lot of flexibility in the type of project or program they can fund with their LCTOP allocation, but supporting new and expanded transit service has been a popular choice.

One of the ways transit agencies can help increase ridership is by offering reduced fare or free fare transit trips. These programs vary widely among transit agencies, targeting different populations of potential riders. In 2019, the University of California Institute of Transportation Studies (UCITS), conducted a statewide survey of transit agencies to learn more about these programs. UC ITS found that three quarters of the respondent transit agencies offered one or more free or reduced fare programs, with the most common being programs for students and for the elderly, and only a few programs targeting a certain income level. The study found that free or reduced fare transit programs increase ridership, but transit agencies had concerns over the long term fiscal health of their agency to support them. Most transit agencies subsidize the free or reduced fare programs as part of their existing operating budget or utilize funding from other state, local, or private sources. LCTOP is one way to fund a

new free or reduced fare program. In 2020-21, over 30 agencies used their LCTOP allocation for a free or reduced fare transit program, including many in rural areas of the state.

However, the current LCTOP program requirements limit the ability of transit agencies to fund a free or reduced fare transit program on an ongoing basis. The current guidelines for the program limit the ability to use LCTOP to 5 years, stating, “the intent is to help start a new viable service that can demonstrate GHG emissions reductions,” and, “other funding sources should supplement and ultimately replace LCTOP funds for operating assistance.”

According to California Transit Association, one of the sponsors of SB 942, “transit agencies have learned that LCTOP underperforms for services and programs that require continuous funding to remain in place, like free or reduced fare transit programs. These programs are designed and implemented to grow transit ridership and deliver more equitable access to transit service, but they inherently reduce revenues collected by transit agencies at the farebox, which must be continuously offset by funding sources, like LCTOP funds, if they are to remain in place.”

SB 942 allows transit agencies to use LCTOP program monies to fund a free or reduced fare transit program on an ongoing basis without any restriction to the length of time. Additionally, SB 942 streamlines the annual application and reporting requirements if the free or reduced fare transit program is continued.

For example, the Orange County Transportation Agency (OCTA), began operating a Youth Ride Free program that allows youth ages 18 and under to ride all Orange County fixed-route buses for free. In 6 months of the program, OCTA has had nearly 700,000 total boardings, with unique youth riders increasing from 7,584 at the program’s inception in September 2021 to 18,365 in January 2022. According to OCTA, “this program has helped support the economic recovery of Orange County and mitigate the financial impacts from the coronavirus pandemic on low-income and diverse populations.” Further, “the Youth Ride Free program is a key part of the strategy to improve mobility options, reduce congestion, and reduce GHG emissions in Orange County. Unfortunately, while the initial pilot program qualified to utilize LCTOP funding, LCTOP cannot be used to fund the program long-term, irrespective of the initial success or long-term prospects for the program.” OCTA notes that without the clarity of SB 942, allowing transit agencies to use funds on an ongoing basis to sustain these programs, OCTA and other agencies do not have other funding sources to support these programs long term.

- 5) *More streamlining, but still accountable?* As noted, SB 942 streamlines some of the annual application and reporting requirements if an agency continues the same free or reduced fare transit program. Currently, every year, each eligible agencies must submit an Allocation Request Form to Caltrans which details each proposed project it intends to fund. The form contains project information including scope, cost, schedule, and detailed descriptions of the major benefits of the project. Additionally, the agency must certify that the project is not supplanting existing transit funding sources. As part of this request, the agency must calculate the estimated GHG emissions reductions associated with the proposed project using ARB's Benefits Calculator Tool, as all projects must net a positive emissions reduction to qualify for approval.

SB 942 allows a transit agency that demonstrates compliance with requirements of the Allocation Request Form in its initial application to continue to fund the same program in subsequent years without having to re-apply. The current program reporting requirements, detailed in Caltrans guidelines, also require the agencies to submit a number of reports annually to Caltrans. Specifically, a Project Activity Report is due every October and reflects the previous year's activities and progress of each project. Any report that is incomplete or inaccurate is considered delinquent. Agencies with delinquent reports do not receive further LCTOP allocations until the reports are corrected.

Additionally, a Corrective Action Plan (CAP) must be submitted if there are any changes to the original approved scope of work. The CAP must be submitted before LCTOP funds can be used for anything other than the original scope approved in the initial Allocation Request. The CAP must also indicate any potential changes to the type or level of benefits of the project and a revised GHG emissions calculation may be requested to demonstrate a reduction.

Finally, a Close-Out Report is required once a project has been completed. The Close-Out Report contains the latest Project Activity Report, all financial information, and a final summary of GHG emissions reductions and benefits to priority communities. In addition to these reports, Caltrans created a new Project Outcome Report this year, specifically for tracking of operational projects to show the achievement of GHG emission reductions and co-benefits. The duration of this new report will be 36 months after a project is considered "operational." Caltrans also relies on annual audits of all transit agencies as required by TDA and site visits for monitoring.

It is unclear how the provisions of SB 942 affect all of these reports that have been developed through the Caltrans guidelines process. However, it is clear that the transit agency must apply for funding for any free or reduced fare

program through the initial Allocation Request Form, detailing the project benefits, and provide annual reports to Caltrans, in the manner in which Caltrans and ARB determine. *The author may want to continue discussions with Caltrans to clarify which reports would be affected to ensure Caltrans and ARB have up-to-date information regarding the ongoing project.*

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

RELATED/PREVIOUS LEGISLATION:

SB 1119 (Beall, Chapter 606, Statutes of 2018) -- waived the requirement for transit agencies to spend 50% of funds from LCTOP on projects or services that benefit DACs, and deemed that all applicable low-income requirements are met, if the funding is spent on certain transit activities, such as reduced fare student transit passes.

SB 824 (Beall, Chapter 479, Statutes of 2016) -- modified the LCTOP to provide enhanced flexibility to recipient transit agencies for program expenditures, as specified.

AB 2090 (Alejo of 2016) -- would have authorized transit agencies to utilize LCTOP funding to support existing transit operations if the governing board of the transit agency declares a fiscal emergency under CEQA. *AB 2090 was held on the Senate Appropriations Committee suspense file.*

SB 862 (Committee on Budget and Fiscal Review, Chapter 36, Statutes of 2014) -- created and funded the Affordable Housing and Sustainable Communities, the Low Carbon Transportation, TIRCP, and LCTOP programs.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, March 16, 2022.)

SUPPORT:

California Transit Association (sponsor)
 Orange County Transportation Authority (sponsor)
 San Diego Metropolitan Transit System
 Ventura County Transportation Commission

OPPOSITION:

None received

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SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2021 - 2022 Regular

Bill No: SB 1049 **Hearing Date:** 3/22/2022
Author: Dodd
Version: 2/15/2022
Urgency: No **Fiscal:** Yes
Consultant: Randy Chinn

SUBJECT: Transportation Resilience Program

DIGEST: This bill establishes a program for planning and projects to make California's transportation more resilient to the impacts of climate change.

ANALYSIS:

Existing law:

- 1) Requires the California Natural Resources Agency to update its climate adaptation strategy, the Safeguarding California Plan, every three years.
- 2) Establishes the Integrated Climate Adaptation and Resiliency Program through the Office of Planning and Research to coordinate regional and local adaptation efforts with state climate adaptation strategies.
- 3) Requires local jurisdictions to update their General Plans to account for climate adaptation.

Existing federal law creates the Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) program to fund transportation resiliency efforts.

This bill:

- 1) Establishes the Transportation Resilience Program (Program) within Caltrans and administered by the California Transportation Commission (CTC);
- 2) Funds the program with 15% of federal National Highway Performance Program (NHPP) Funds and 100% of federal PROTECT program funds;

- 3) Requires that not less than 10% of the program funds be used for climate mitigation planning and not less than 75% of funds be used for resilience improvement projects, with an unspecified amount set aside for state highway system resilience.
- 4) Establishes eligibility criteria for resilience improvement projects including that the projects must be identified in a climate adaptation plan, be consistent with an applicable regional transportation plan/sustainable communities strategy, and be included in a comprehensive resilience plan.
- 5) Requires that projects be prioritized to address the transportation network's most high-priority vulnerable assets, taking into consideration the degree of risk, the benefits to regional or statewide mobility, and the benefits to adjacent communities and the environment. Priority shall be given to projects that also provide a greenhouse gas emission reduction or other environmental benefit, includes the use of natural infrastructure, or reduces the risk to vulnerable communities.

COMMENTS:

- 1) *Author's Statement.* "The federal Infrastructure Investment and Jobs Act of 2021 (IIJA) provides California new resources that present a unique opportunity to help fund resilience planning and investments across the state. SB 1049 would establish a new Transportation Resilience Program at the state level to prioritize these new federal dollars to better support the climate adaptation planning needed to protect our transportation infrastructure and to further develop and implement many of the projects identified in existing multi-stakeholder plans. Funds would be allocated for climate adaptation planning and resilience improvements that address or mitigate the risk of recurring damage, or closures, of the state highway system, other federal-aid roads, public transit facilities, and other surface transportation assets from extreme weather events, sea level rise, or other climate change-fueled natural hazards. Estimates in the Bay Area alone identify \$19 billion in costs to adapt the Bay Area's infrastructure and surrounding communities for just two feet of sea level rise. Many California cities, counties, and multi-jurisdictional, multi-stakeholder groups have begun robust climate adaptation planning work."
- 2) *It's Here.* From highway washouts from intense rainstorms, to wildfire that has scorched pavement and structures, to flooding that has closed highways, California's transportation system has been subjected to costly damage from climate change. Caltrans has been leading the effort to identify at-risk areas, having surveyed the entire state to identify threatened state transportation assets

and prioritizing the most at-risk. Various state agencies have described and characterized how climate change impacts sea level rise, temperature, precipitation, and wildfire spread through the California Climate Assessment. The state has offered assistance to local governments through various tools, such as the California Adaptation Planning Guide produced by Cal OES. Some local jurisdictions have also done transportation resiliency planning funded by Caltrans through SB 1 (Beall, Chapter 5 of 2017). Yet these efforts still leave California far short of comprehensive climate resiliency plans and projects which will protect our transportation assets.

- 3) *Let's Get Started.* To jump start the state's planning and construction of transportation resiliency projects, the 2021-22 state budget discussions considered a \$400 million program for transportation resilience and planning as part of the larger (failed) transportation deal. That proposal is back on the table this year. Buttressing this effort, the recently passed federal Infrastructure Investment and Jobs Act of 2021 (IIJA) created the PROTECT program, which provides California with \$631 million for transportation resiliency over five years. Moreover, the IIJA also added funding in the NHPP for highway construction and allowed up to 15% of the total amount of NHPP funds to be used for climate change resiliency on national highways, which is about \$250 million annually. Taken together, these programs could result in a new transportation climate resilience program of \$3 billion over five years.

This bill creates a program for allocating these funds. Establishing this program requires making many decisions, of which these are the most important:

- a) Who Decides? Under this bill the California Transportation Commission will determine which projects and entities receive funding. This will be a substantial new undertaking for the CTC.
- b) How Much? Having had little funding to deal with transportation system resiliency, California is now poised to have about \$3 billion over five years for resiliency under the terms of this bill. And the expectation is the largest source of resiliency funding, 15% of the NHPP funding, will be ongoing, providing reliable funding for resiliency projects. Yet even this enormous new funding won't be enough to pay for all the necessary transportation resiliency planning and projects. Caltrans has preliminarily estimated that by 2030 the cost of resiliency for just the state highway system will be \$11 billion with greater costs in future years. MTC has estimated that resiliency for the Bay Area will cost \$19 billion, though this includes non-transportation assets such as housing.

While resiliency funding will likely fall short of need, funding for keeping the state highway system in a state of good repair is also short of need by \$60 billion over the next ten years. NHPP funding can be used for both. The author may wish to consider whether the state should require that 15% of NHPP funding go to resiliency, or whether the bill should leave the discretion to the CTC.

- c) What is Eligible? The program funds two activities: Planning grants for local governments and projects for the state and for local and regional governments. Not less than 10% of funding goes to planning grants; projects receive not less than 70% of funding with an unspecified set-aside for state highways. **The author may wish to consider whether this funding split between planning and projects is appropriate, and how much funding should be dedicated to state highways versus local streets and transit systems.** Relatedly, there's a question of how much planning is necessary. The state has required local governments to plan for climate adaptation but implementation has been spotty. And integration of local plans at the county or regional level will allow for consistency and better prioritization. Yet too much planning will conflict with the urgent need for action and investment.
- d) What are the Criteria for Choosing among Eligible Projects? The bill provides little guidance for choosing who receives planning funding. But for project funding, the bill specifies that resilience improvement projects that address risks to a transportation network's "most high-priority vulnerable assets" is the priority, and requires the CTC to consider 1) the degree of risk due to climate threats, and for projects on the state highway system the CTC shall consult Caltrans' adaptation priority reports; 2) the benefits of the project to preserving regional or statewide mobility, economy, goods movement, and safety; 3) the benefits of the project to preserving or protecting adjacent communities, the environment, and other critical infrastructure.

As it is unlikely California will have enough funding to pay for all the necessary resilience projects, some criteria for prioritization will need to be established. This is made more complicated because different regions of the state are further along in their planning and will therefore be earlier in line with projects. Perhaps there's so much work to do that any reasonable project should be funded as soon as it is ready. But some of the resiliency projects that are proposed later may have a greater relative benefit. Which projects should have priority? Similarly, how should equity be considered in determining funding priority? Should it be based on a calculation of costs

and benefits or should there be some accounting for people regardless of income or property values? And how should prioritization account for the different types of solutions for the different climate risks? Natural solutions make sense for sea level rise, but there may be no natural solutions to deal with highway washouts from intense storms. These are complicated questions. **The author may wish to consider having further discussions on setting project priorities.**

- 4) *Budget Negotiations.* The Governor's Budget proposes \$400 million for a transportation resiliency program and includes an appropriate trailer bill. That bill also provides funding for local planning as well as state and local projects. Consideration of regional climate equity is required, as is substantial reporting. Like last year, this funding is contingent on a larger agreement on transportation spending.

RELATED LEGISLATION:

SB 1050 (Dodd) – Authorizes tolling on Highway 37. *This bill is pending in the Senate Transportation Committee.*

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

POSITIONS: (Communicated to the committee before noon on Wednesday, March 16, 2022.)

SUPPORT:

AAA Northern California, Nevada & Utah
Auto Club of Southern California (AAA)
Metropolitan Transportation Commission

OPPOSITION:

None received

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SENATE COMMITTEE ON TRANSPORTATION

Senator Lena Gonzalez, Chair

2021 - 2022 Regular

Bill No:	SB 1050	Hearing Date:	3/22/2022
Author:	Dodd		
Version:	3/14/2022		
Urgency:	No	Fiscal:	Yes
Consultant:	Randy Chinn		

SUBJECT: State Route 37 Toll Bridge Act

DIGEST: This bill establishes a new Authority to collect tolls on State Route 37 and requires the Authority to impose tolls for improvement on the Sonoma Creek Bridge and for long term improvements to the corridor.

ANALYSIS:

Existing law:

- 1) Authorizes the California Department of Transportation (Caltrans) and other entities to apply to the California Transportation Commission to develop toll facilities but does not authorize the conversion of an existing non-toll lane to a toll lane. (Section 149.7 of the Streets and Highways Code)
- 2) Requires that if the California Transportation Financing Authority allows a project sponsor to collect tolls, the project must also have non-tolled lanes available for use. (Section 64112 of the Government Code)

This bill:

- 1) Establishes the State Route (SR) 37 Toll Authority which shall collect tolls for the use of the Sonoma Creek Bridge on SR 37.
- 2) Authorizes toll revenues to be used for near-term improvements to the toll bridge to address congestion and long-term improvements to the corridor, which includes rebuilding about 20 miles of SR 37 between Interstate 80 in Solano County and Highway 101 in Marin County, land acquisition, improving public transit options, ecological restoration, and design and engineering.
- 3) Authorizes the Toll Authority to issue revenue bonds.

- 4) Establishes toll rates at not less than \$1 and requires the Toll Authority to set the toll schedule in the amount necessary to meet the bond obligations.
- 5) Requires that the toll rates provide a 50% discount to high occupancy vehicles and between a 25% to 50% discount for low income drivers residing in the Counties of Marin, Napa, Solano and Sonoma.

COMMENTS:

- 1) *Author's Statement.* "State Route 37 (SR 37) is a major thoroughfare extending from US 101 in Novato to I-80 in Vallejo and is currently threatened by congestion, sea level rise, and flooding. In 2017, flooding forced full or partial closures of SR 37 for a total of 27 days and in 2019 flooding resulted in an additional 8 days of closures. According to a report by the University of California, Davis, without action, all segments of SR 37 could be exposed to storm surge flooding from a 5- to 10-year coastal storm event by 2050 and by 2100 sea level rise is projected to render SR 37 completely unusable. An estimated 40,000 cars and trucks cross it each day. That number is expected to increase nearly 50 percent, to 58,000 vehicles, over the next 20 years. Adaptive action is necessary to ensure SR 37 remains a viable transportation artery for the region. SB 1050 will establish the necessary toll authority on SR 37 to assist in providing the revenue needed to improve the resiliency of this important transportation infrastructure from sea level rise, flooding, and congestion; while also increasing opportunities for ecological enhancements, transit, multimodal use, and public access. The funding generated would help leverage state and federal funding sources to complete the needed overhaul."
- 2) *Background on SR 37.* SR 37 is a 21 mile highway ringing the northern edge of San Pablo Bay connecting Interstate 80 in Solano County to US 101 in Marin County. SR 37 is one of the most imperiled state highways for sea level rise.

The western part of SR 37 is two lanes in each direction and has already been subject to flooding. Caltrans is working on a mitigation project which is out for environmental review and will cost between \$150 million and \$800 million. It is funded from existing resources and construction is expected to begin in 2027.

The eastern part of SR 37 is a single lane in each direction and is congested. Caltrans and MTC are working on a project to relieve congestion by adding one or more lanes and widening the Sonoma Creek Bridge. This project, known as the "Interim Project", is in the environmental review phase with several options under consideration, costing between \$256 million and \$415 million. Completion is expected in 2027.

A second phase, known as the “Ultimate Project”, will address sea level rise for the entire 21 mile SR 37 corridor. It is a major project that will likely require moving at least part of the highway and could require a new bridge or bridges. This second phase is in the very preliminary stages with a goal of completing the project by 2050 and a very preliminary estimated cost of \$6 billion.

- 3) *To Toll, or Not.* This bill marks a fundamental change in state policy. Under this bill SR 37 will change from a toll-free road to a toll road.¹ This has never been done before in California. While California has toll roads and toll bridges, none was previously toll-free. Toll lanes have been added to existing freeways or been converted from a carpool lane, in both cases supplementing, not replacing, existing toll-free lanes. In this case, there will be no free lanes nor will there be a reasonable toll-free alternate route.
- 4) *Toll Rates.* While one part of the bill limits the toll to the level of the trans-bay bridges (currently \$7), there is an overriding provision that requires the toll rates to be set at whatever level is needed to repay the bonds issued for the projects. The tolls will pay for at least part of both the Interim Project and the Ultimate Project. Since the cost of these projects, as well as future federal and state project contributions, are unknown, the toll rate cannot be predicted. Combined with relatively low traffic volumes (about one-sixth of the Bay Bridge), which result in relatively few vehicles over which to amortize the costs, this creates pressure for toll rates to be very high.
- 5) *Being Equitable.* The bill addresses equity issues by requiring a 25% - 50% discount for low income drivers residing in Marin, Sonoma, Napa and Solano counties. (The bill does not define low-income.) But with no free lanes or alternative routes, and no public transit option, finding a reasonable equity solution is a challenge. The Administration has begun engaging parties on these issues. In their implementation of their Climate Action Plan for Transportation Infrastructure (CAPTI) they have established a Road Pricing working group, called for developing an Equity Index for prioritization of Caltrans projects, and established a Transportation Equity and Environmental Justice Advisory Committee. Once completed, the result of these efforts would provide valuable input into the appropriateness of tolling.

Supporters contend that the toll revenues will also support transit and pooling options, a benefit to low income residents. They also believe that the congestion reduction benefits of this project are valuable to those residents.

¹ SR 37 began as a private toll road in the late 1920s. It was acquired by the State of California in the late 1930's and made toll-free.

6) *Is the Tolling Revenue Needed?* The SR 37 project includes both an Interim Project for congestion relief and an Ultimate Project for sea level rise. The Ultimate Project is decades in the future so authorizing tolls for that project this year is unnecessary. The Interim Project is still in the planning stage and depending on which alternative is selected, the cost will vary by almost \$200 million. The committee staff understands that the contribution from toll revenues is expected to be \$50 million to \$100 million, so depending on which alternative is selected, the additional toll revenue may be unneeded. Alternatively, the recent passage of the federal Infrastructure Investment and Jobs Act of 2021 provided California with \$4.2 billion for a new bridge program and almost \$6 billion in new highway funding, some of which could replace whatever toll revenues are envisioned for the project. Either of these options facilitates the Interim Project without requiring tolls.

Supporters argue that tolling is necessary to provide a local match which will strengthen the project's ability to obtain other transportation funds, such as the Solutions for Congested Corridor (SCC) program and the Trade Corridor Enhancement Program (TCEP). These are competitive programs which are oversubscribed so providing this benefit tilts the scales for SR 37 versus other competing projects.

7) *Who Decides?* Under this bill the Legislature has made the decision to impose tolls and authorized the tolling agency to set them at a level to meet the bond obligations. While only the Legislature can grant the authority to impose tolls, the Legislature does not have to require that tolls be imposed. Such was the case in SB 595 (Beall; Chapter 650 of 2017) where instead of imposing the tolls the Legislature required a special election for voters to approve a toll increase for the region's bridges. (The measure was approved by a majority vote, but it is being contested and is pending in the California Supreme Court.) Alternatively, the Legislature could authorize MTC to seek an election should it desire to impose tolls.

8) *Case by Case or Setting a Policy?* This bill establishes a unique funding mechanism for the SR 37 corridor. Additional tolling or other road charges will undoubtedly be necessary for congestion, resilience, and VMT reduction projects in many other locations. Those could also be dealt with on a case by case basis. But developing a state tolling policy, as is happening in the CAPTI process, facilitates a fuller public policy conversation, provides for consistency on the imposition of tolling or other road charges, including considering equity concerns, and eliminates the need for individual bills.

9) *Double referral.* This bill has been double referred to the Governance and Finance Committee.

RELATED LEGISLATION:

SB 1049 (Dodd) – Establishes a program for funding transportation resiliency investments. *This bill is pending in the Senate Transportation Committee.*

AB 194 (Frazier; Chapter 687 of 2015) – Authorizes Caltrans and others to apply to the CTC to develop high occupancy toll lanes under specified conditions.

FISCAL EFFECT: Appropriation: Yes Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, March 16, 2022.)

SUPPORT:

American Council of Engineering Companies of California
Metropolitan Transportation Commission
Napa County Transportation and Planning Agency/Napa Valley Transportation Authority
Solano Transportation Authority
Sonoma County Transportation Authority
Sonoma Land Trust

OPPOSITION:

None received

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SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2021 - 2022 Regular

Bill No: SB 1079 **Hearing Date:** 3/22/2022
Author: Portantino
Version: 2/15/2022
Urgency: No **Fiscal:** No
Consultant: Katie Bonin

SUBJECT: Vehicles: sound-activated enforcement devices.

DIGEST: This bill authorizes local jurisdictions to use sound-activated enforcement devices to capture vehicle noise levels that exceed the legal limits and issue tickets.

ANALYSIS:

Existing law:

- 1) Requires every motor vehicle subject to registration to be equipped with an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise and prohibits a muffler or exhaust system from being equipped with a cutout, bypass, or similar device.
- 2) Prohibits the modification of an exhaust system of a motor vehicle in a manner that will amplify or increase the noise emitted by the motor of the vehicle so that the vehicle exceeds existing noise limits when tested in accordance with specified standards.
- 3) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill:

- 1) Permits local jurisdictions to use sound-activated enforcement devices to enforce noise limits.
- 2) Specifies that a sound-activated enforcement device shall only capture images of the vehicle's rear license plate.

- 3) Specifies that the sound-activated enforcement devices shall be distributed equally across a local jurisdiction and shall not be disproportionately placed in a single area or areas.
- 4) Specifies that a sign shall be placed to notify motorists of the device's existence prior to reaching the sound-activated enforcement device.
- 5) Specifies that prior to issuing a notice of violation, a local jurisdiction utilizing a sound-activated enforcement device shall commence a program to issue only warning notices for 30 days.
- 6) Specifies that owners of vehicles not in compliance after that 30-day period may face any applicable penalties.
- 7) Specifies that a local jurisdiction shall consider a person's ability to pay the penalty and shall allow payment of the penalty in installments or deferred payment if the person provides satisfactory evidence of an inability to pay the penalty in full.
- 8) Specifies that information collected and maintained by a local jurisdiction using a sound-activated enforcement device shall be confidential and only be used to administer the program and not disclosed to any other persons.
- 9) Specifies that, to protect the privacy interests of persons who are issued notices of violation under a sound-activated enforcement device program, the records generated by a sound-activated enforcement device shall be confidential.

COMMENTS:

- 1) *Purpose.* According to the author, "illegally loud exhaust harms our bodies, can be deafening if you are walking or cycling on the street, and wakes people up from their sleep. While vehicle exhaust noise is limited to 95 decibels, there are no universal means to monitor and enforce this law. Vehicle owners can easily buy and install new exhaust systems or make other modifications to their vehicle that will change the level of sound. SB 1079 will permit cities to address illegal noise violations in their community by using decibel-measuring tools and noise activated cameras."
- 2) *Background.* Existing law prohibits a person from modifying their vehicles in any way that amplifies the noise emitted by the vehicle. Similarly, a vehicle

with a gross weight of 6,000 pounds or less, the average size of a car, cannot emit sounds greater than 95 decibels (dbA). Generally, 95 dbA is comparable to the noise emitted by a food processor; a shouted conversation; or the inside of a subway car. SB 1079 attempts to cut down on vehicular sound pollution by authorizing local jurisdictions to use sound automated detection devices to issue tickets to vehicles owners whose vehicles emit sound above the legal limit. The author contends that overly loud vehicles affect urban residents' quality of life and lead to long-term health risks.

- 3) *How does the technology work?* The sound automated detection devices described in the bill are known as noise cameras. These cameras are relatively new, as they were developed in 2020 and have only been in use since early 2021. Each camera is priced at around \$25,000. These devices are cameras equipped with a microphone and an embedded sound meter. The camera allows the user to set a defined noise limit. When that pre-defined noise limit is exceeded, the camera begins to record the noise event. The noise level, the audio at the time of the event, and the video of the event are all recorded simultaneously. Functionally, these cameras perform similarly to red light cameras. However, according to the manufacturer of these cameras, ticketing is not automatic; it requires manual review. The system permits a reviewer to identify the offending vehicle and generate a report with a picture of the vehicle, the date, time, dbA level, and a vehicle's license plate. The report can then be used to issue a ticket.
- 4) *How effective is the technology?* The noise cameras do not have the technology to differentiate between sounds. The system is not automatic and requires manual review to determine whether the noise event that triggered the camera was a violating vehicle or another source of noise such as a siren, horn, gunshot, brew bike, or a myriad of other possibilities. Similarly, if a vehicle is in a group of other vehicles, perhaps at an intersection, there may be an issue recognizing which vehicle violated the sound limit, even with a manual review. The author believes that the cameras are needed in urban areas with higher populations, meaning that the likelihood of the cameras being set off by other noise events is increasingly high.

The cameras are currently being used in New York City, Knoxville, Tennessee, the Royal Borough of Kensington, and Chelsea in London. Philadelphia is considering using the cameras. Conversely, in Toronto, city councilors decided not to pursue the use of noise cameras because, among other issues, the “automated technology was not able to discern between sources of noise and could not identify individual offending vehicles to the degree that would meet

the evidentiary test required for court purposes.”¹ This means that a manual review would be required. Such reviews could be time and labor intensive. Notably, SB 1079 does not specify who would be responsible for the program or the review. In fact, the bill does not determine that a manual review is required.

- 5) *Monitoring the technology.* As written, SB 1079 does not specify where the devices are to be placed. Placement would affect the calibration level. Similarly, the bill does not specify who will be responsible for calibrating the system, nor is there any specification as to who will monitor and maintain the devices to ensure they have not been corrupted or altered. Documentation of the inspection, operation, and calibration of the system should be retained until the date on which the system has been permanently removed. **The author will propose amendments to specify that each device will undergo annual calibration checks performed by an independent calibration laboratory that will issue a signed calibration certificate. The local department of transportation will keep the certificate on file.**
- 6) *Penalties and equity?* As the bill is written, offenders will be able to pay the penalty in installments or deferred payment if the offender provides satisfactory evidence of an inability to pay the penalty in full. Future amendments may add a forgiveness program for violators unable to pay. The issue SB 1079 is trying to remedy is noise pollution in cities due to individuals illegally modifying their exhaust systems. However, the bill may have the unintended consequence of ticketing a vehicle owner that does not have the means to fix their vehicle, and the continued issuance of the ticket may place an undue burden on the offender while increasing administrative costs on the municipality.
- 7) *Contesting a wrongful violation.* Contesting an erroneously issued ticket will be difficult. As specified in the bill, the camera will only capture images of the vehicle's rear license plate. Without a sound recording and reading from the calibrated dbA meter an alleged violator cannot mount a full defense. **The author and the committee may wish to include a provision that specifies an appeals process and should specify more than just a photo be given to the violator.** Notices of violation should include a clear photograph of the vehicle's license plate, a photo of the vehicle, the video recording, the recorded dbA level, and the date and time.

¹ <https://www.cbc.ca/news/canada/toronto/tired-of-hearing-loud-vehicles-at-night-in-toronto-city-staff-hope-noise-radar-can-put-on-the-brakes-1.6204088>

- 8) *Signage*. The bill requires a sign to be placed to notify motorists that the device is being used. However, there is no specification of what the sign must include. Nor does the bill specify where such signage should be placed. A uniform design and clarity that the sign should be placed far enough in advance to place a driver on adequate notice would help ensure equitable enforcement. **The author and the committee may wish to include specifications as to where the signs should be placed and what the signs should include.** The committee recommends that the signs be placed within 500 feet of the device and include that all signs must include a “Photo Enforced” statement. The signs should be visible to traffic traveling on the street from the direction of travel for which the system is utilized.
- 9) *Pilot Program*. New York and Tennessee are using noise cameras on a preliminary basis to determine whether noise pollution from vehicles is a bigger problem that needs to be remedied. **The author and the committee may wish to create a pilot program in specified and requesting cities to determine if the noise cameras are necessary and whether the devices work as intended.** The committee recommends a two-year pilot program with a limited number of participating cities, not to exceed six cities, with a requirement that participating cities submit reports to the legislature to evaluate and determine the effectiveness of the program and the cameras.
- 10) *Amendments*. The author proposes the following amendments to help clarify the bill:
- a) Specify that the local department of transportation will be responsible for the devices instead of local jurisdictions.
 - b) Specify that the local department of transportation must destroy images collected by the devices upon final resolution of the notice of violation.
 - c) Specify that revenues derived from the devices be used, first by the local departments to recover the cost of the program, then to traffic calming measures.
 - d) Specify that each device must undergo an annual calibration check by an independent calibration laboratory.
 - e) Specify a definition for the local department of transportation.
 - f) Specify a definition for the sound-activated enforcement systems.
- 11) *Double Referral*. This bill is also referred to the Senate Judiciary Committee.

**POSITIONS: (Communicated to the committee before noon on Wednesday,
March 16, 2022.)**

SUPPORT:

ActiveSGV
CalBike
Streets for All

OPPOSITION:

Oakland Privacy
Safer Streets LA

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SENATE COMMITTEE ON TRANSPORTATION
Senator Lena Gonzalez, Chair
2021 - 2022 Regular

Bill No: SB 1111 **Hearing Date:** 3/22/2022
Author: Archuleta
Version: 3/15/2022 Amended
Urgency: No **Fiscal:** Yes
Consultant: Katie Bonin

SUBJECT: Trash receptacles and storage containers: reflective markings.

DIGEST: This bill requires reflective markings to be placed on specified trash receptacles and storage containers.

ANALYSIS:

Existing law:

- 1) Vests the Department of Transportation with full possession and control of all state highways.
- 2) Vests the board of supervisors of a county with general supervision, management, and control of county highways.
- 3) Grants the legislative body of a city certain powers with respect to city streets and roads.

This bill:

- 1) Requires, commencing January 1, 2025, a manufacturer who sells or provides for compensation a trash receptacle or storage container that is longer than 3 feet and taller than 4 feet and that is designed to be placed on a roadway or the curb of a roadway, in order to be emptied or picked up, to mark the receptacle or container with a reflector on each side.
- 2) Requires all specified trash receptacles or storage containers have a strip of reflective tape that is at a minimum six inches wide and four feet long placed vertically on each corner of the container and mandates that the reflective tape is fluorescent yellow and made of high-performance retroreflective sheeting of American Society for Testing and Materials (ASTM) D4956-13 Type IX.

- 3) Requires an owner who sells or provides for compensation a trash receptacle or storage container that is designed to be placed on a roadway or the curb of a roadway in order to be emptied or picked up to clearly label the trash receptacle or storage container with the owner's name and current telephone number.
- 4) Specifies that a person who violates these provisions shall be guilty of an infraction punishable by a fine of \$100 dollars for the first violation, \$500 dollars for the second violation, and \$1,000 for the third violation or any subsequent violation.

COMMENTS:

- 1) *Purpose.* According to the author, "The Best Safety Act, named after long time legislative staff and lobbyist Roderick "Rick" Best, who sadly passed away after a traffic accident with an unmarked dumpster, is a necessary safety measure that will protect the lives of everyone on our roadways. This commonsense bill will require large trash receptacles placed on roads or curbs that are virtually invisible on a dark night to have reflective markings."
- 2) *Additional Safeguards.* SB 1111 requires manufacturers who sell specified trash receptacles and storage containers to mark these receptacles with clearly visible high-performance reflective tape. Making these containers and receptacles more visible may provide additional safeguards on local streets and roadways. Existing law generally protects motorists from such collisions by prohibiting obstructions from being placed in the main flow of traffic. However, adding the reflective tape has the potential to better alert pedestrians and bikers of the potential hazard. The committee spent some time investigating the pervasiveness of this hazard. The committee was unable to find other reports of severe collisions, thus it is unclear how widespread this issue is.
- 3) *Clarifying the application of the penalty.* As SB 1111 is drafted, a manufacturer must mark these receptacles or containers with a reflector. Whereas, the owner must make sure the owner's contact information is attached to the receptacles or containers. Violators are punished with an infraction. Yet, it is unclear whether a manufacturer who does not update their trash receptacles and/or storage containers with the reflective tape will be issued one penalty for each violating container or one penalty generally. Likewise, it is unclear whether the requirements only apply to existing receptacles and containers or includes newly issued receptacles and containers. Similarly, it is unclear who is responsible for making sure the contact information is current. **The author and**

committee may wish to consider amending the bill to specify how the penalties will be applied to violating manufacturers and owners and what a violation is.

4) *Double Referral.* This bill is also referred to the Senate Judiciary Committee.

RELATED/PREVIOUS LEGISLATION:

SB 741 (Archuleta, 2021) — would have required a person who sells or provides for compensation a trash receptacle or storage container that is designed to be placed on a roadway or the curb of a roadway in order to be emptied or picked up shall mark the trash receptacle or storage container with a reflector on each side. *This bill died in the Senate Transportation Committee.*

SB 1353 (Archuleta, 2020) — this bill was identical to SB 741. *This bill died in the Senate Transportation Committee.*

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

POSITIONS: (Communicated to the committee before noon on Wednesday, March 16, 2022.)

SUPPORT:

California Waste Haulers Council
3M

OPPOSITION:

None received.

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