



General Assembly

January Session, 2011

Amendment

LCO No. 8370

HB0644908370HDO

Offered by:
REP. DILLON, 92nd Dist.

To: Subst. House Bill No. 6449 File No. 625 Cal. No. 369

**"AN ACT CONCERNING THE SAFETY OF PERSONS ENTERING
OR EXITING A SCHOOL BUS."**

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. (NEW) (*Effective October 1, 2011*) As used in this section
4 and sections 502 to 504, inclusive, of this act:

5 (1) "Automated traffic enforcement safety device" means a device
6 that (A) is capable of producing a photographically recorded still or
7 video image, or combination thereof, of the rear of a motor vehicle or a
8 motor vehicle being drawn by another motor vehicle, including an
9 image of the vehicle's rear license plate; and (B) indicates on one or
10 more of any such image produced, the date and time, and the location
11 of violation and the traffic control signal;

12 (2) "Owner" means a person or persons in whose name a motor
13 vehicle is registered under title 14 of the general statutes, or under the
14 laws of another state or country; and

15 (3) "Vendor" means a person who: (A) Provides services to a
16 municipality under sections 502 to 504, inclusive, of this act; (B)
17 operates, maintains, leases or licenses an automated traffic
18 enforcement safety device; or (C) is authorized to review and assemble
19 the recorded images captured by the automated traffic enforcement
20 safety device, provided none of these activities shall be construed by
21 the state or a traffic authority as providing or participating in private
22 investigative services.

23 Sec. 502. (NEW) (*Effective October 1, 2011*) (a) A municipality with a
24 population greater than sixty thousand, with the authorization of its
25 chief executive officer and legislative body, may authorize the use of
26 automated traffic enforcement safety devices to enforce the provisions
27 of section 14-299 of the general statutes, within such municipality. The
28 use of such devices shall be authorized at not more than five
29 intersections, none of which shall permit motor vehicles to make a
30 right turn at a red light.

31 (b) Before enforcing an ordinance adopted under this section, the
32 municipality shall install advance warning signs along all approaches
33 of the roadways preceding the intersection at which an automated
34 traffic enforcement safety device is located. The advance warning signs
35 shall notify motorists of the existence of the automated traffic
36 enforcement safety device.

37 (c) Any ordinance adopted under this section shall specify the
38 following: (1) That the owner of a motor vehicle commits a violation of
39 the ordinance if the automated traffic enforcement safety device
40 produces a recorded image or images of a motor vehicle, or a motor
41 vehicle being drawn by another motor vehicle proceeding through an
42 intersection in violation of the provisions of section 14-299 of the
43 general statutes; (2) that the owner of a motor vehicle establishes a
44 defense if the person identified as having the care, custody or control
45 of the motor vehicle, or identified as the operator of the motor vehicle
46 at the time of the violation, is not the owner; (3) that payment of a
47 penalty and associated costs and fees imposed for a violation of an

48 ordinance adopted under this section may be made by electronic
49 means; and (4) that a local police officer or a designated employee of a
50 vendor shall review and approve the recorded image or images before
51 the notices referred to in subsection (e) of this section are mailed to the
52 owner of the motor vehicle, or the motor vehicle being drawn by
53 another motor vehicle.

54 (d) An ordinance adopted under this section: (1) Shall impose a civil
55 penalty equal to the greater of one hundred twenty-four dollars or the
56 maximum penalty permitted for a violation of an ordinance adopted
57 under this section; (2) may impose fees associated with the electronic
58 processing of the payment of the civil penalty imposed for a violation
59 of such ordinance; and (3) shall provide that such payments received
60 by a municipality shall be used to pay the assessment made by the
61 Department of Motor Vehicles in accordance with this section, and that
62 the amount remaining after payment of such assessment shall be used
63 as follows: (A) Fifty per cent of such amount shall be retained by such
64 municipality and may be applied to defray the costs of the installation,
65 operation and maintenance of the automated traffic enforcement safety
66 device and program; (B) twenty per cent shall be deposited in the
67 general fund of the municipality or in any special fund or account of
68 the municipality, as determined by the chief executive officer and
69 legislative body; (C) fifteen per cent shall be paid to the State Treasurer
70 for deposit in the General Fund and shall be credited to the
71 appropriation for the Department of Social Services, for Services for
72 Persons with Disabilities, Traumatic Brain Injury; and (D) fifteen per
73 cent shall be paid to the State Treasurer for deposit in the Special
74 Transportation Fund.

75 (e) The municipality or its authorized agent shall mail to the owner
76 of a motor vehicle or a motor vehicle being drawn by another motor
77 vehicle, committing a violation of an ordinance adopted under this
78 section, notice of the ordinance violation by first class mail postmarked
79 not later than thirty days after obtaining the name and address of the
80 owner of the motor vehicle, but not more than sixty days after the date
81 of the alleged violation. The notice shall contain the following

82 statement printed in twelve-point boldface type:

83 "YOU ARE CHARGED WITH A VIOLATION UNDER A
84 VOLUNTARY PROGRAM ADOPTED BY A PARTICIPATING
85 MUNICIPALITY, AUTHORIZED BY THE CHIEF ELECTED
86 OFFICIAL AND RATIFIED BY ORDINANCE OF THE LOCAL
87 LEGISLATIVE BODY."

88 Such notice shall also include: (1) The name and address of the
89 owner of the motor vehicle, or the motor vehicle being drawn by
90 another motor vehicle; (2) the license plate number of the motor
91 vehicle or the motor vehicle being drawn by another motor vehicle; (3)
92 the violation charged; (4) the location of the intersection and the date
93 and time of the violation; (5) a copy of or information on how to view,
94 through electronic means, the recorded image described in this section;
95 (6) a statement or electronically-generated affirmation by a designated
96 employee of a vendor, or local police officer, who has reviewed the
97 recorded image described in this section and determined that the
98 motor vehicle violated the ordinance; (7) the amount of the civil
99 penalty imposed for the violation; and (8) the date by which the civil
100 penalty shall be paid if the owner of the vehicle does not choose to
101 contest the violation, and chooses to avoid paying court costs. The date
102 by which the civil penalty shall be paid shall not be more than thirty
103 days after the issuance date of the violation, if a defense described in
104 this section does not apply, or forty-five days after the issuance date of
105 the violation if a defense described in this section requires the notice to
106 be sent to another person.

107 (f) Any challenge to the implementation of an automated traffic
108 enforcement safety device or adoption of an ordinance under this
109 section shall be brought within thirty days of passage of the ordinance.

110 (g) It is a defense in a proceeding to enforce an ordinance adopted
111 under this section if the owner provides to the municipality, or agent
112 for the municipality, an affidavit signed under the penalties of perjury
113 which: (1) Establishes that, at the time of the alleged violation, the

114 owner was engaged in the business of renting or leasing motor
115 vehicles under written agreements; (2) establishes that, at the time of
116 the alleged violation, the motor vehicle was in the care, custody or
117 control of a person other than the owner or an employee of the owner
118 of the motor vehicle or the vehicle being drawn by another motor
119 vehicle, under a written agreement for the rental or lease of the motor
120 vehicle or the vehicle being drawn by another motor vehicle, for a
121 period of not more than sixty days; and (3) provides to the traffic
122 authority, court or agent for the municipality the name and address of
123 the person who was renting or leasing the motor vehicle or the vehicle
124 being drawn by another motor vehicle at the time of the alleged
125 violation.

126 (h) If the owner of a motor vehicle or a vehicle being drawn by
127 another motor vehicle meets the requirements of subsection (g) of this
128 section, the traffic authority, court or agent for the local municipality
129 shall mail, or electronically transfer, a notice of the citation to the
130 person identified as having the care, custody or control of the motor
131 vehicle or the vehicle being drawn by another motor vehicle at the
132 time of the violation. The proof required under said subsection (g) of
133 this section creates a rebuttable presumption that the person having
134 the care, custody or control of the motor vehicle or the vehicle being
135 drawn by another motor vehicle at the time of the violation was the
136 operator of the motor vehicle at the time of the violation. The notice
137 required under this subsection shall contain the following: (1) The
138 information described in subsection (e) of this section; (2) a statement
139 that the person receiving the notice was identified by the owner of the
140 motor vehicle or the vehicle being drawn by another motor vehicle as
141 the person having the care, custody or control of the motor vehicle at
142 the time of the violation; and (3) a statement that a person may offer a
143 defense as described in this subsection, or in subsection (g) or (i) of this
144 section.

145 (i) It is a defense to a proceeding to enforce an ordinance adopted
146 under this section if the owner provides to the traffic authority or court
147 an affidavit signed under penalty of perjury stating either of the

148 following: (1) That the owner was not operating the motor vehicle or
149 the motor vehicle drawing another vehicle at the time of the alleged
150 violation and provides the name and address of the person operating
151 the motor vehicle or the motor vehicle drawing a vehicle at the time of
152 the alleged violation; or (2) that either: (A) The motor vehicle, or (B) the
153 license plate of the motor vehicle or the vehicle being drawn by
154 another motor vehicle, was stolen before the alleged violation occurred
155 and was not under the control or possession of the owner at the time of
156 the alleged violation. In addition to such affidavit, the owner shall
157 submit proof that a police report was filed concerning the stolen motor
158 vehicle or stolen license plate.

159 (j) If the owner of a motor vehicle or a vehicle being drawn by
160 another motor vehicle submits the evidence required under subsection
161 (i) of this section, the traffic authority, court or agent for the local
162 municipality shall mail a notice of the citation to the person identified
163 as the person operating the motor vehicle at the time of the violation.
164 The proof required under subsection (i) of this section creates a
165 rebuttable presumption that the person identified in the affidavit
166 required under subsection (i) of this section was the operator of the
167 motor vehicle at the time of the violation. The notice required under
168 this subsection shall contain the following: (1) The information
169 described in subsection (e) of this section; and (2) a statement that the
170 person receiving the notice was identified by the owner of the motor
171 vehicle as the person operating the motor vehicle at the time of the
172 violation.

173 (k) It is a defense to a proceeding to enforce an ordinance adopted
174 under this section if any of the following apply: (1) A person operating
175 an authorized emergency vehicle may proceed past a red traffic control
176 signal or traffic control device after slowing down as necessary for safe
177 operation; (2) the traffic signal lights are not operating, and such is able
178 to be observed on the recorded image; (3) the operator was complying
179 with a lawful order or direction of a law enforcement officer, and such
180 is able to be observed on the recorded image; (4) the operator was
181 yielding right-of-way to an authorized emergency vehicle, and such is

182 able to be observed on the recorded image; (5) the vehicle was
183 participating in a funeral procession, and such is able to be observed
184 on the recorded image; or (6) a traffic citation was issued to the
185 operator of the motor vehicle for the violation by a state or local police
186 officer.

187 (l) A designated employee or local police officer is not liable for any
188 loss while acting within the scope of the employment of the designated
189 employee or local police officer under this section or an ordinance
190 adopted under this section.

191 (m) If it appears from the records of the local authority that has
192 jurisdiction to enforce an ordinance adopted under this section that a
193 person has failed to pay a violation before the deadlines established by
194 this section without notification of an intent to contest the violation,
195 the local authority shall send a notice to the person who is the
196 registered owner of the motor vehicle or the vehicle being drawn by
197 another motor vehicle. The notice shall inform the registered owner of
198 the following: (1) That the local authority will send a referral to the
199 Department of Motor Vehicles if the violation is not paid within thirty
200 days after the notice was mailed; and (2) that the referral will result in
201 the nonrenewal of the registration of the motor vehicle or the vehicle
202 being drawn by another motor vehicle, if the violation is not paid.

203 (n) A local authority shall send a referral to the Department of
204 Motor Vehicles not later than thirty days after the notice required
205 under this section was mailed if a violation of an ordinance adopted
206 under this section has not been contested and has not been paid. The
207 referral to the Department of Motor Vehicles shall include the
208 following: (1) Any information known or available to the local
209 authority concerning the license plate number and year of registration
210 and the name of the owner of the motor vehicle or the vehicle being
211 drawn by another motor vehicle; (2) the date on which the violation
212 occurred; (3) the date when the notice required under this section was
213 mailed; and (4) the seal of the local authority.

214 (o) If the Department of Motor Vehicles receives a referral under
215 subsection (n) this section, the department shall refuse to renew the
216 registration of the motor vehicle or the vehicle being drawn by another
217 motor vehicle and shall mail a notice to the person in whose name the
218 vehicle is registered that: (1) Informs the person that the registration of
219 the vehicle will not be renewed and that the reason for the refusal to
220 renew was the failure to pay an ordinance violation adopted under the
221 authority of this section; and (2) explains what the person is required
222 to do to have the registration reinstated.

223 (p) The Department of Motor Vehicles shall reinstate the registration
224 of a vehicle that is not renewed under this section if any person
225 presents the Department of Motor Vehicles with adequate proof that
226 the violation has been paid and a reinstatement fee has been paid, if
227 applicable.

228 (q) The Commissioner of Motor Vehicles shall assign one or more
229 hearing officers who conduct hearings for the Department of Motor
230 Vehicles, to conduct the hearings authorized by this section. The
231 commissioner shall assess municipalities using automated traffic
232 enforcement safety devices pursuant to the provisions of this section
233 for the costs incurred by the department pursuant to this section. The
234 commissioner shall adopt regulations, in accordance with the
235 provisions of chapter 54 of the general statutes, establishing
236 procedures for the assignment of such officers and the assessment of
237 municipalities.

238 (r) Any person who asserts a defense authorized by this section and
239 who requests a hearing shall be given written notice of the date, time
240 and place for the hearing. Such hearing shall be held not less than
241 fifteen days or more than thirty days after the date of the mailing of
242 notice, provided the hearing officer shall grant upon good cause
243 shown any reasonable request by any interested party for
244 postponement or continuance. An original or certified copy of the
245 initial notice of violation shall be filed and retained by the
246 municipality, be deemed to be a business record within the scope of

247 section 52-180 of the general statutes and be evidence of the facts
248 contained therein. A person wishing to contest such person's liability
249 shall appear at the hearing and may present evidence in such person's
250 behalf. The presence of the police officer who authorized the issuance
251 of the citation shall be required at the hearing if such person so
252 requests. A designated municipal official may present evidence on
253 behalf of the municipality. If the person who requested the hearing
254 fails to appear, the hearing officer may enter an assessment by default
255 against such person upon a finding of proper notice and liability under
256 the applicable ordinance or statute. The hearing officer may accept
257 from such person copies of police reports, documents of the
258 Department of Motor Vehicles and other official documents by mail
259 and may determine thereby that the appearance of such person is
260 unnecessary. The hearing officer shall conduct the hearing in the order
261 and form and with such methods of proof as the hearing officer deems
262 fair and appropriate. The rules regarding the admissibility of evidence
263 shall not be strictly applied, but all testimony shall be given under oath
264 or affirmation. The hearing officer shall announce the hearing officer's
265 decision at the end of the hearing. If the hearing officer determines that
266 the person is not liable, the hearing officer shall dismiss the matter and
267 enter the hearing officer's determination in writing accordingly. If the
268 hearing officer determines that the person is liable for the violation, the
269 hearing officer shall forthwith enter and assess the fines, penalties,
270 costs or fees against such person as provided by the applicable
271 ordinances of the municipality.

272 Sec. 503. (NEW) (*Effective October 1, 2011*) Notwithstanding any
273 provision of the general statutes, a violation of section 14-299 of the
274 general statutes detected and recorded by an automated traffic control
275 signal enforcement device pursuant to section 502 of this act shall not:
276 (1) Constitute an infraction or violation; (2) be processed by the
277 Centralized Infractions Bureau; (3) be considered a moving traffic
278 violation; (4) be reported to the Department of Motor Vehicles for
279 inclusion on a person's driving record; or (5) cause the assessment of
280 points against the operator's license of the person found to have

281 violated section 14-299 of the general statutes, provided the failure of
282 the person determined to have been the operator of the motor vehicle
283 or the vehicle being drawn by another motor vehicle at the time of the
284 violation, to pay the civil penalty shall be reported to the Department
285 of Motor Vehicles and the department shall refuse to renew the
286 registration of the vehicle operated in violation of section 14-299 of the
287 general statutes.

288 Sec. 504. (NEW) (*Effective October 1, 2011*) Not later than October 1,
289 2012, or twelve months following the date of implementation of an
290 automated traffic enforcement safety device program by a
291 municipality, each municipality that has installed such a device and
292 has been operating such a program shall submit a report to the
293 committee on Legislative Program Review and Investigations. Such
294 report shall include a comparison and analysis of: (1) The number of
295 violations of section 14-299 of the general statutes that occurred at the
296 intersections where such automated traffic control signal enforcement
297 devices were used, prior to and during the use of such enforcement
298 devices; (2) the number and type of related traffic violations and
299 accidents that occurred at such intersections prior to and during the
300 use of such devices; and (3) the number of violations of section 14-299
301 of the general statutes and related violations and accidents that
302 occurred at intersections where such control signal enforcement
303 devices were used and at similar intersections where such automated
304 traffic control signal enforcement devices were not used. The report
305 shall also describe situations in which (A) camera results could not be
306 used or were not used; (B) the number of leased, out-of-state or other
307 vehicles, including trucks, where enforcement efforts were
308 unsuccessful; (C) the amount of revenue from fines retained by the
309 municipality; (D) the cost of such program to the municipality; and (E)
310 such other data or comparisons deemed of interest or importance by
311 the municipality."