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Memorandum

TO: Legislation Committee

DATE: Mar. 6, 2009

FR: Executive Director

RE: AB 628 (Block): "Pay-by-Plate" Toll Collection Authorization

Description
AB 628 (Block) would authorize California drivers to pay electronic tolls via license plate. While electronic tolling is now widespread throughout the state with the use of FasTrak®, California law does not permit the collection of tolls from license plates.

Recommendation: Support

Discussion
In recent years, toll collection technology has progressed to the point where toll authorities are able to charge and collect tolls using digital images of license plates. This has been implemented on toll facilities in the U.S. and around the world. It is generally used as an alternative, or supplement, to transponder-based electronic toll collection. The technology has proven to be particularly useful for infrequent toll facility users who might not have regular or ongoing need for a transponder-based (FasTrak®) account.

The California Vehicle Code allows the use of license plate capture technology to enforce toll violations, but it does not specifically allow for payment of tolls by license plate. AB 628 would allow BATA, along with other toll operators statewide, the option to offer customers the ability to pay tolls using their license plate. The same license plate privacy and security data required of toll operators for processing toll violations would apply to pay-by-plate toll collection. The bill requires valid license plates to be displayed on the front and back of any vehicle paying tolls under the pay-by-plate option. Toll operators that choose to offer this option would be responsible for developing policies, procedures and business rules for communicating and implementing this "pay-by-plate" option.

As such, the legislation would expand the toll payment options available to Bay Area motorists while also providing congestion relief at the toll plazas by reducing the number of cash transactions. For these reasons, we recommend a support position on AB 628.

Known Positions
Support
South Bay Expressway

Known Positions (cont'd)

Oppose

None

Steve Heminger

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AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 628

Introduced by Assembly Member Block

February 25, 2009

An act to amend Sections 23302 and 40255 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 628, as amended, Block. Vehicles: toll evasion violations.

(1) Existing law makes it unlawful for any person to refuse to pay tolls or other charges on any vehicular crossing or toll highway and provides that it is prima facie evidence of a violation of this provision for any person to enter upon any vehicular crossing without either lawful money of the United States in the person's immediate possession in an amount sufficient to pay the prescribed tolls or other charges due from that person or a transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls. A violation of these provisions is an infraction.

This bill would additionally provide that, for vehicular crossings and toll highways where the issuing agency permits pay-by-plate toll processing and payment of tolls and other charges in accordance with policies adopted by the issuing agency, it is prima facie evidence of a toll evasion violation for a person to enter the vehicular crossing or toll highway without at least one of the following: (A) lawful money of the United States in the person's immediate possession in an amount sufficient to pay the prescribed tolls or other charges due from that person, or (B) a transponder or other electronic toll payment device

associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls, or (C) valid California vehicle license plates properly affixed to both the front and rear of the vehicle in which that person enters onto the vehicular crossing or toll highway. Where electronic toll collection is the only other method of paying tolls or other charges, the bill would provide that it is prima facie evidence of a toll evasion violation for a person to enter the vehicular crossing or toll highway without either (i) a transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls, or (ii) valid California vehicle license plates properly affixed to both the front and rear of the vehicle in which that person enters onto the vehicular crossing or toll highway.

(2) Existing law provides that the officer or person authorized to issue a notice of toll evasion violation is not required to participate in an administrative review of the toll evasion violation and that the issuing agency is not required to produce any evidence other than the notice of toll evasion violation or a copy thereof, information received from the department identifying the registered owner of the vehicle, and a statement under penalty of perjury from the person reporting the violations. Under existing law perjury is a crime.

This bill would require, for a toll evasion violation that occurs on a vehicular crossing or toll highway where the issuing agency allows pay-by-plate toll processing and payment, the required statement under penalty of perjury from the officer or person reporting the violation to include a statement that the tolls or other charges and any applicable fee were not paid in accordance with the issuing agency's policies for pay-by-plate toll processing and payment.

(3) The bill would make other technical, nonsubstantive and conforming changes to these provisions.

Because the bill would create new crimes, the bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 23302 of the Vehicle Code is amended to read:

23302. (a) It is unlawful for a person to fail to pay tolls or other charges on any vehicular crossing or toll highway. ~~Subject to~~ *Except as otherwise provided in* subdivision (b), (c), or (d), it is prima facie evidence of a violation of this section for a person to enter upon any vehicular crossing without either lawful money of the United States in the person's immediate possession in an amount sufficient to pay the prescribed tolls or other charges due from that person or a transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls. If a transponder or other electronic toll payment device is used to pay tolls or other charges due, the device shall be located in, or on the vehicle in a location so as to be visible for the purpose of enforcement at all times when the vehicle is located on the vehicular crossing or toll highway. Where required by the operator of a vehicular crossing or toll highway, this requirement applies even if the operator offers free travel or nontoll accounts to certain classes of users.

(b) For vehicular crossings and toll highways that use electronic toll collection as the only method of paying tolls or other charges, it is prima facie evidence of a violation of this section for a person to enter the vehicular crossing or toll highway without a transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls.

(c) ~~Subject to subdivision (d), for~~ *For* vehicular crossings and toll highways where the issuing agency, as defined in Section 40250, permits pay-by-plate toll processing and payment of tolls and other charges in accordance with policies adopted by the issuing agency, it is prima facie evidence of a violation of this section for a person to enter the vehicular crossing or toll highway without at least one of the following:

(1) Lawful money of the United States in the person's immediate possession in an amount sufficient to pay the prescribed tolls or other charges due from that person.

(2) A transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls.

(3) Valid California vehicle license plates properly affixed to both the front and rear of the vehicle in which that person enters onto the vehicular crossing or toll highway.

(d) For vehicular crossings and toll highways where the issuing agency, as defined in Section 40250, permits pay-by-plate toll processing and payment of tolls and other charges in accordance with policies adopted by the issuing agency, and where electronic toll collection is the only other method of paying tolls or other charges, it is prima facie evidence of a violation of this section for a person to enter the vehicular crossing or toll highway without either a transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls or valid California vehicle license plates properly affixed to both the front and rear of the vehicle in which that person enters onto the vehicular crossing or toll highway.

(e) ~~)As~~ *As* used in this section, "Pay-by-plate toll processing and payment" means an issuing agency's use of on-road vehicle license plate identification recognition technology to accept payment of tolls within a specified period of time following the use of the vehicular crossing or toll highway by persons entering upon the vehicular crossing or toll highway without the payment of tolls or other charges by either cash payment in lawful money of the United States or use of an electronic toll payment device associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay the tolls or other charges, in accordance with policies adopted by the issuing agency.

(f) This section does not require an issuing agency to implement pay-by-plate toll processing.

SEC. 2. Section 40255 of the Vehicle Code is amended to read:

40255. (a) Within 21 days from the issuance of the notice of toll evasion violation, or within 15 days from the mailing of the notice of delinquent toll evasion, whichever occurs later, a person may contest a notice of toll evasion violation or a notice of delinquent toll evasion. In that case, the processing agency shall do the following:

(1) The processing agency shall either investigate with its own records and staff or request that the issuing agency investigate the circumstances of the notice with respect to the contestant's written explanation of reasons for contesting the toll evasion violation. If, based upon the results of that investigation, the processing agency is satisfied that the violation did not occur or that the registered owner was not responsible for the violation, the processing agency shall cancel the notice of toll evasion violation and make an adequate record of the reasons for canceling the notice. The processing agency shall mail the results of the investigation to the person who contested the notice of toll evasion violation or the notice of delinquent toll evasion violation.

(2) If the person contesting a notice of toll evasion violation or notice of delinquent toll evasion violation is not satisfied with the results of the investigation provided for in paragraph (1), the person may, within 15 days of the mailing of the results of the investigation, deposit the amount of the toll evasion penalty and request an administrative review. After January 1, 1996, an administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding any time tolled pursuant to this article. The person requesting the hearing may request one continuance, not to exceed 21 calendar days.

(b) The administrative review procedure shall consist of the following:

(1) The person requesting an administrative review shall indicate to the processing agency his or her election for a review by mail or personal conference.

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

(3) (A) The administrative review shall be conducted before a reviewer designated to conduct the review by the issuing agency's governing body or chief executive officer. In the case of violations on facilities developed pursuant to Section 143 of the Streets and Highways Code, the processing agency shall contract with a public agency or a private entity that has no financial interest in the facility

for the provision of administrative review services pursuant to this subdivision. The costs of those administrative review services shall be included in the administrative fees authorized by this article.

(B) In addition to any other requirements of employment, a reviewer shall demonstrate those qualifications, training, and objectivity prescribed by the issuing agency's governing body or chief executive as are necessary and which are consistent with the duties and responsibilities set forth in this article.

(C) The examiner's continued employment, performance evaluation, compensation, and benefits shall not be directly or indirectly linked to the amount of fines collected by the examiner.

(4) The officer or person authorized to issue a notice of toll evasion violation shall not be required to participate in an administrative review. The issuing agency shall not be required to produce any evidence other than the notice of toll evasion violation or copy thereof, information received from the department identifying the registered owner of the vehicle, and a statement under penalty of perjury from the person reporting the violation. For a toll evasion violation that occurs on a vehicular crossing or toll highway where the issuing agency allows pay-by-plate toll processing and payment, as defined in Section 23302, the required statement under penalty of perjury from the person reporting the violation shall include a statement that the tolls or other charges and any applicable fee was not paid in accordance with the issuing agency's policies for pay-by-plate toll processing and payment. The documentation in proper form shall be considered prima facie evidence of the violation.

(5) The review shall be conducted in accordance with the written procedure established by the processing agency which shall ensure fair and impartial review of contested toll evasion violations. The agency's final decision may be delivered personally or by first-class mail.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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