
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2023 - 2024 Regular Session

SB 50 (Bradford) - Vehicles: enforcement

Version: March 30, 2023
Urgency: No
Hearing Date: April 17, 2023

Policy Vote: PUB. S. 4 - 1
Mandate: No
Consultant: Matthew Fleming

Bill Summary: SB 50 would prohibit peace officers from initiating a traffic stop for specified low-level infractions unless a separate, independent basis for a stop exists.

Fiscal Impact:

- Unknown, potentially-significant reduction in revenue to various funds resulting from fewer citations being issued (General Fund, Special Funds, Local Funds). See Staff Comments for additional details.
- Possible reduction in revenue in Fiscal Year (FY) 2023-24 due to delayed enforcement of vehicle registration violations (Special Fund, Motor Vehicle Account). Short-term loss of revenue is likely to be recouped in FY 2024-25.

Background: The Fourth Amendment of the United States Constitution provides in part that “the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated.” The United States Supreme Court has held that temporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes a ‘seizure’ of persons within the meaning of this provision. In *Whren v. United States*, decided in 1996, the Court further held that “the temporary detention of a motorist upon probable cause to believe that he has violated the traffic laws does not violate the Fourth Amendment’s prohibition against unreasonable seizures, even if a reasonable officer would not have stopped the motorist absent some additional law enforcement objective.” The Court’s decision in *Whren* has given rise to what have been dubbed “pretext stops,” a practice in which a law enforcement officer uses a minor traffic violation as a pretext to stop a vehicle in order to investigate other possible crimes. Given the litany of possible traffic violations, especially in California, the use of pretext stops as an investigative tool has become widespread since the decision in *Whren*.

As use of pretext stops has increased, so too has criticism of the practice. Many argue that pretext stops are a driver of racial bias in law enforcement (discussed further below), while others claim that they subvert the spirit of the Fourth Amendment by giving officers carte blanche to stop a vehicle. In 2015, the Legislature passed AB 953 (Weber, Ch. 466, Stats. of 2015), also known as the Racial and Identity Profiling Act (RIPA) of 2015, which expressly prohibited racial and identity profiling by law enforcement and requires law enforcement agencies to report vehicle stop data to the DOJ. In January, 2023, the RIPA Board released its sixth annual stop data report of data collected in the 2021 calendar year, which showed that the most commonly

reported reason for a stop (86.8%) across all racial/ethnic groups was a traffic violation, and that individuals perceived as Black or Hispanic comprised nearly 58% of the stops reported (against a total population share of 42%), while just under 31% of the stops involved individuals perceived as white (against a total population share of 35%). Additionally, the report found that officers used force against people perceived as Black at 2.2 times the rate of individuals perceived as white.

This bill prohibits officers from initiating a vehicle stop for a low-level infraction, unless there is a separate, independent basis for the stop. The bill defines low-level infraction for purposes of the bill. The bill would also specify that local governments are not precluded from enforcing low-level infractions with government employees who are not peace officers.

Proposed Law:

- Provides that notwithstanding any other law, a peace officer shall not stop or detain the operator of a motor vehicle or bicycle for a low-level infraction.
- Defines “low-level infraction” as any of the following:
 - A violation related to the registration of a vehicle or vehicle equipment, as specified.
 - A violation related to the positioning or number of license plates when at least one plate is clearly displayed, as specified.
 - A violation related to vehicle lighting equipment not illuminating, if the violation is limited to a single brake light, headlight, or running light, or a single bulb in a larger light of the same, as specified.
 - A violation related to window tints or obstructions, as specified.
 - A violation related to vehicle bumper equipment, as specified.
 - A violation related to bicycle equipment or operation, as specified.
- Specifies that “low-level infraction” does not include violations relating to commercial vehicles.
- Provides that if an officer does not have grounds to stop or detain the operator of a motor vehicle or bicycle, and the officer can identify the owner of the vehicle, the officer’s agency may, mail a citation to the owner, or send a warning letter identifying the violation and instructing the owner to correct the defect or otherwise remedy the violation.
- Specifies that existing law does not preclude a county, city, municipality or any other local authority from enforcing a violation provided in the Vehicle Code through government employees who are not peace officers.

- Specifies that local authorities may adopt rules and regulations by ordinance or resolution regarding regulating traffic by means of traffic officers or other government employees.

Related Legislation:

- AB 93 (Bryan) would prohibit peace officers from conducting searches of a vehicle, person or their effects based solely on a person's consent. AB 93 is pending on the Assembly Floor.
- SB 1389 (Bradford, 2022) was similar to this bill in that it would have bill prohibits a peace officer from initiating a traffic stop for a low-level infraction, as defined, unless there is a separate, independent basis to initiate the traffic stop. SB 1389 was ordered to the inactive file on the Senate Floor.
- SB 1359 (Hueso) Ch. 306, Stats. of 2022, required law enforcement to confirm that a vehicle does not have current Department of Motor Vehicles (DMV) registration before issuing a citation for failure to display registration tabs, and prohibited the issuance of a citation for failure to display registration tabs when the vehicle's registration is current.

Staff Comments: When someone is stopped for one of the traffic infraction offenses enumerated in this bill, they are issued a citation. There is a typically an opportunity to correct that citation, which would require a relatively modest payment. If the citation goes uncorrected, however, the penalty goes up dramatically. For example, the infraction offense of driving a vehicle without current registration (Vehicle Code § 4000), carries a fine of \$25. Upon collection, that \$25 is divided between the State Court Facilities Fund (\$15.00), the State Penalty Fund (\$3.40), and the local county and/or city general fund (\$6.60). When a violation of that section goes uncorrected, the penalty is ratcheted up to \$285. Various additional funds are included in the distribution of those \$285, including the General Fund, the Trial Court Trust Fund, the DNA Identification Fund, and others.

It is unclear how many citations would go unissued as a result of this bill that otherwise would have resulted in citations and revenue to the various funds described above. The California Highway Patrol (CHP) reports that it alone issued over 300,000 citations for the traffic code violations specified in this bill in 2022. A single expired registration violation that goes uncorrected results in approximately \$173 in state special fund revenue. Therefore, if law enforcement, including CHP and local police and sheriff departments, issued 868 fewer citations as a result of this bill, and assuming for the moment that each of those citations was not corrected, SB 1389 would meet the suspense threshold. Assuming every citation would be corrected, it would take a reduction of approximately 8,300 citations to meet the suspense threshold. Staff notes that the loss of revenue to the State may be partially offset to the extent law enforcement is able to successfully identify the motorist and send a citation to their home address that results in collection. Additionally, to the extent local governments are able to establishment enforcement of Vehicle Code violations through government employees who are not peace officers, there may be some offset of revenue loss.

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