

Date of Hearing: July 2, 2024

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Rebecca Bauer-Kahan, Chair

SB 1297 (Allen) – As Amended April 11, 2024

SENATE VOTE: 36-3

SUBJECT: The City of Malibu’s speed safety system pilot program

SYNOPSIS

According to the author “The evening of October 17, 2023, a young man speeding at 104 miles per hour on Pacific Coast Highway (PCH) in the City of Malibu lost control of his vehicle and killed four Pepperdine University students standing on the side of the highway. Since 2010, 59 people have been killed in vehicle accidents along the same beautiful but exceedingly dangerous 21-mile stretch of highway. Crash data from the Los Angeles County Sheriff shows that in 2023 alone there were 127 property-damage collisions, 93 injury collisions, and seven deaths. A primary factor in all of these incidents was high vehicle speed.”

This bill adds the City of Malibu to a speed safety system pilot program created by AB 645 (Friedman; Ch. 808, Stats. of 2023). Under this pilot, the city is authorized to place five speed enforcement cameras along the stretch of the PCH that goes through Malibu. This bill includes the same privacy protections that were included in AB 645, which was passed by this Committee in 2023. These provisions ensure that the personal information related to the location of drivers travelling on the PCH remains protected. For example, the bill requires that photographic or administrative records generated by the speed safety system be confidential, and only used to administer a program. The bill prohibits the information from being disclosed to any other person, including any other state or federal government agency or official for any other purpose, except as required by state or federal law, or court order.

In addition, the local authority is only permitted to retain speed safety system data and evidence for 60 days and speed safety system administrative records for 120 days following final disposition of a violation, after which the data, evidence, and administrative records must be destroyed in a manner that maintains the confidentiality of any person included in the evidence. The city is also required to destroy any speed safety system data within five days if the data shows no evidence of a speeding violation. Finally, the bill also ensures that any vendors are held to these same standards and provides that any speed safety system data collected is confidential and may not be shared, repurposed, or monetized for purposes other than speed safety system enforcement. The bill additionally prohibits the use of facial recognition software.

The bill contains a sunset of five years or until January 1, 2032, whichever is earlier.

The bill is supported by the City of Malibu, Streets for All, and the Alliance of Automotive Innovation, among others. The American Civil Liberties Union – California Action and Peace Officers Research Association of California (PORAC) are among the opposition. The bill passed the Transportation Committee on a 13-1-1 vote.

SUMMARY: Authorizes the City of Malibu to establish a speed safety system pilot program on the Pacific Coast Highway (PCH). Specifically, **this bill:**

- 1) Allows the City of Malibu to establish a program for speed enforcement that uses up to five cameras on the PCH.
- 2) Requires the program to clearly identify the presence of the speed safety system using enhanced signage, flashing beacons, and speed feedback signs.
- 3) Requires regular inspection and calibration of the cameras.
- 4) Requires the City of Malibu to continue funding additional traffic enforcement by the California Highway Patrol.
- 5) Requires the local authority to develop and make available for public review a Speed Safety System Impact Report prior to implementing the program to assess any impact on civil liberties, including a description of the program, program cost, if potential deployment locations are predominantly in low-income neighborhoods, and a determination of why those locations experience high fatality and injury collisions due to unsafe speed.
- 6) Requires that a public information program at least 30 days prior to the implementation of the camera program and that for the first 60 days of enforcement only warning notices be issued.
- 7) Requires that the local authority establish guidelines for the screening and issuing of notices of violation and for the processing and storage of confidential information. The notice shall include a clear photograph of the license plate and rear of the vehicle only, the Vehicle Code violation, the location, and the date and time the violation occurred.
- 8) Provides for a fine to the registered owner of the vehicle of \$50 for a speed violation from 11 to 15 mph over the posted speed limit, \$100 for a speed violation from 16 to 25 mph over the posted speed limit, \$200 for a speed violation of 26 mph or more over the posted speed limit, and \$500 for traveling at a speed of 100 mph or greater. The fine is a civil penalty and shall not result in a loss of the driving privilege or in a violation point being assessed against the violator.
- 9) Requires indigent individuals be offered community service in lieu of the fine, or the fine is reduced by 80%. The fine is reduced by 50% for individuals up to 250% above the federal poverty level.
- 10) The vehicle's first violation results in a warning, not a fine, if that violation is for driving not more than 15 mph over the posted speed limit.
- 11) Establishes a process where the registered owner can request a review of the fine by the issuing agency and a hearing on the fine by the issuing agency.
- 12) Establishes that the photos and administrative records shall be confidential, and that public agencies shall use and allow access to these records only for the purposes of the automated speed enforcement system. Limits on how long records can be retained are established and disclosures to others prohibited.
- 13) Provides that a person will not be subject to a civil violation if there is proof the vehicle was being used by someone sharing their vehicle in a personal vehicle sharing program or if proof

of a copy of a police report indicating the vehicle had been stolen at the time of the violation, in addition to the existing provision for the owner of a rental car.

- 14) Requires speed safety systems to be placed in locations that are geographically and socioeconomically diverse.
- 15) Requires, to the extent feasible, for the speed safety system camera to be angled and focused so as to only capture photographs of speeding violations and not capture identifying images of other drivers, vehicles, or pedestrians.
- 16) Requires the revenue raised by speed cameras to first be spent on implementing the program and then be spent on traffic-calming measures. Funds not spent within three years are required to be sent to the Active Transportation Program (ATP).
- 17) Authorizes the program to operate for five years or until January 1, 2032, whichever is earlier.

EXISTING LAW:

- 1) Authorizes the cities of Los Angeles, San Jose, San Francisco, Oakland, Long Beach and Glendale to establish a five year speed safety system pilot program. (Veh. Code §§ 22425 - 22431)
 - a) Defines a “Speed safety system” or “system” as a fixed or mobile radar or laser system or any other electronic device that utilizes automated equipment to detect a violation of speed laws and obtains a clear photograph of a speeding vehicle’s license plate. (Veh. Code § 22425(a)(6).)
 - b) Authorizes a speed safety system to be used if the program meets all of the following requirements:
 - i) Clearly identifies the presence of the speed safety system by signs stating “Photo Enforced,” along with the posted speed limit no more than 500 feet before the placement of the system. The signs shall be visible to traffic traveling on the street from the direction of travel for which the system is utilized, and shall be posted at all locations as may be determined necessary by the Department of Transportation after consultation with the California Traffic Control Devices Committee.
 - ii) Identifies the streets or portions of streets that have been approved for enforcement using a speed safety system and the hours of enforcement on the municipality’s internet website, which shall be updated whenever the municipality changes locations of enforcement.
 - iii) Ensures that the speed safety system is regularly inspected, but no less than once every 60 days, and certifies that the system is installed and operating properly. Each camera unit shall be calibrated in accordance with the manufacturer’s instructions, and at least once per year by an independent calibration laboratory. Documentation of the regular inspection, operation, and calibration of the system shall be retained at least 180 days after the date on which the system has been permanently removed from use.

- iv) Utilizes fixed or mobile speed safety systems that provide real-time notification to the driver when violations are detected. (Veh. Code § 22425(d).)
- c) Requires that prior to enforcing speed laws utilizing speed safety systems that the designated jurisdiction do the following:
 - i) Administer a public information campaign for at least 30 calendar days prior to the commencement of the program, which shall include public announcements in major media outlets and press releases. The public information campaign shall include the draft Speed Safety System Use Policy pursuant to subdivision (g), the Speed Safety System Impact Report pursuant to subdivision (h), information on when systems will begin detecting violations, the streets, or portions of streets, where systems will be utilized, and the designated jurisdiction's internet website, where additional information about the program can be obtained. Notwithstanding the above, no further public announcement by the municipality shall be required for additional systems that may be added to the program.
 - ii) Issue warning notices rather than notices of violation for violations detected by the speed safety systems during the first 60 calendar days of enforcement under the program. If additional systems are utilized on additional streets after the initial program implementation, the designated jurisdiction shall issue warning notices rather than notices of violation for violations detected by the new speed safety systems during the first 60 calendar days of enforcement for the additional streets added to the program. (Veh. Code § 22425(f).)
- d) Requires that a vehicle's first violation within a designated jurisdiction for traveling 11 to 15 miles per hour over the posted speed limit be a warning notice. (Veh. Code § 22425(f)(2)(B).)
- e) Requires the governing body of a designated jurisdiction to adopt a Speed Safety System Use Policy and approve a Speed Safety System Impact report prior to implementing a program. (Veh. Code § 22425(g) and (h).)
- f) Requires notices of violation issued to include a clear photograph of the license plate and rear of the vehicle only, identify the specific section of the Vehicle Code violated, the camera location, and the date and time when the violation occurred. Notices of violation must not include images of the rear window area of the vehicle. (Veh. Code § 22425(j).)
- g) Requires that, notwithstanding any other law, photographic or administrative records made by a system be confidential. Public agencies shall use and allow access to these records only for the purposes authorized by this article or to assess the impacts of the system. (Veh. Code § 22425(i)(1).)
- h) Requires that any photographic evidence obtained by the system may only be retained for up to 60 days after the final disposition of the notice and any photographic evidence that does not result in the issuance of a notice of violations must be destroyed within five business days after the photograph was first made. (Veh. Code § 22425(i)(3) and (4).)

- i) Requires that a speed safety system at a specific location be operated for no more than 18 months after installation of a system, unless one of the following thresholds has been met:
 - i) A reduction in the 85th percentile speed of vehicles compared to data collected before the system was in operation.
 - ii) A 20-percent reduction in vehicles that exceed the posted speed limit by 10 miles per hour or more compared to data collected before the system was in operation.
 - iii) A 20-percent reduction in the number of violators who received two or more violations at the location since the system became operational. (Veh. Code § 22425(p).)
 - j) Requires that the speed safety system, to the extent feasible, be angled and focused so as to only capture photographs of speeding violations and not capture identifying images of other drivers, vehicles, or pedestrians. (Veh. Code § 22425(q).)
- 2) Limits the violation of any speed law that is recorded by a speed safety system to a civil penalty and that it shall not result in the suspension or revocation of a driver's license or a point being assessed against the violator. (Veh. Code § 22426(a).)
 - 3) Restricts the use of mobile radar or laser systems shall not be used until at least two years after the installation of the first fixed radar or laser system unless the mobile radar or laser system is kept at a fixed location. (Veh. Code § 22426(f).)
 - 4) Sunsets the speed safety system after five years of operation, or until January 1, 2032, whichever date is sooner. (Veh. Code § 22426(i).)
 - 5) Requires that notices of violations only be issued to registered owners of the vehicles based on the photographic evidence captured by the speed safety system. (Veh. Code § 22426(b).)
 - 6) Authorizes the use of automated traffic enforcement systems (i.e., red light cameras) at railroad crossings and intersections to record violations of unlawful grade crossings and running of red lights. (Veh. Code § 21455.5)

FISCAL EFFECT: As currently in print, this bill is keyed fiscal.

COMMENTS:

1) **Purpose.** The Pacific Coast Highway (PCH) through the City of Malibu is a notoriously dangerous stretch of highway. According to the author, "Since 2010, over 60 people have been killed on the 21 miles of highway in Malibu. This major thoroughfare is the primary transportation route for 10,654 residents and more than 40,000 visitors per day. Malibu's stretch of PCH is uniquely hazardous—with few sidewalks or separated bike lanes, limited parking, extremely heavy visitor traffic, and homes and businesses just feet from passing traffic and few safe ways to cross." The author further notes that with a population of just over 10,000 people, Malibu ranks in the top 25 small cities with the worst crash fatality rates in the country. The purpose of this bill is to provide Malibu with an additional tool to assist in slowing down traffic

and increasing roadway safety. According to the mayor of Malibu, the city is committed to using an “all of the above” approach to reducing the number of accidents along their stretch of PCH.

Last year, AB 645 (Friedman; Ch. 808, Stats. of 2023) was enacted, which established a speed safety system program in California and authorized the cities of Los Angeles, San Jose, San Francisco, Oakland, Long Beach and Glendale to operate a limited number of speed safety systems for five years, or until January 1, 2032, whichever is sooner. The provisions in that bill are substantially similar to this bill. Essentially, the effect of this bill is to expand the existing pilot project to include the City of Malibu.

2) **Author’s statement.** According to the author:

The evening of October 17, 2023, a young man speeding at 104 miles per hour on Pacific Coast Highway (PCH) in the City of Malibu lost control of his vehicle and killed four Pepperdine University students standing on the side of the highway. Since 2010, 59 people have been killed in vehicle accidents along the same beautiful but exceedingly dangerous 21-mile stretch of highway. Crash data from the Los Angeles County Sheriff shows that in 2023 alone there were 127 property-damage collisions, 93 injury collisions, and seven deaths. A primary factor in all of these incidents was high vehicle speed.

SB 1297 will create a 5-year pilot program authorizing the City of Malibu to use speed cameras to enforce speed limits on Pacific Coast Highway. The pilot program includes equity and privacy protections, public notice requirements, and roadway signage to alert drivers of their speed.

3) **Effectiveness of speed safety systems.** Both the Assembly and the Senate Transportation Committees have found that automated speed safety cameras appear to be effective. Specifically, according to the Senate Transportation analysis:

The evidence seems to support the notion that photo enforcement of speed limits reduces speeding. A report by the New York City Department of Transportation found that their speed camera program has proven to be effective and efficient in reducing speeding. As of December 2021, speeding at fixed camera locations had dropped on average 73%.¹ An analysis of Chicago’s speed camera program showed less dramatic improvement². The expected number of fatal and severe injury crashes was reduced by 15%. Looking at specific camera sites, about 70% of the sites had a positive safety improvement.

4) **Analysis.** The question before this Committee is whether or not gathering additional license plate information using speed cameras constitutes an unnecessary privacy risk for drivers in California. The author has included the same privacy protections in this bill as were included in AB 645, which was passed by this Committee in 2023. These provisions ensure that the personal information related to the location of drivers travelling on the PCH remains protected. For example, the bill requires that photographic or administrative records generated by the speed safety system be confidential, and only used to administer a program. The bill prohibits the information from being disclosed to any other person, including any other state or federal

¹ New York City Automated Speed Enforcement Report; 2022 Report; p 2.

² Red-Light and Speed Cameras: Analyzing the Equity and Efficacy of Chicago’s Automated Camera Enforcement Program, by Sutton and Tilahun, Department of Urban Policy and Planning, University of Illinois Chicago; January 10, 2022.

government agency or official for any other purpose, except as required by state or federal law, or court order.

In addition, the local authority is only permitted to retain speed safety system data and evidence for 60 days and speed safety system administrative records for 120 days following final disposition of a violation, after which the data, evidence, and administrative records must be destroyed in a manner that maintains the confidentiality of any person included in the evidence. The city is also required to destroy any speed safety system data within five days if the data shows no evidence of a speeding violation. Finally, the bill also ensures that any vendors are held to these same standards and provides that any speed safety system data collected is confidential and may not be shared, repurposed, or monetized for purposes other than speed safety system enforcement. The bill additionally prohibits the use of facial recognition software.

5) Larger policy questions. As it stands now, the continued proliferation of surveillance technology, including speed safety cameras, red light cameras, public surveillance cameras, public and private security cameras, including cameras built into doorbells, and automated license plate recognition tools means that whenever someone steps out the front door of their home, any expectation of privacy vanishes. Should Californians simply accept the complete loss of privacy as people move through their lives in public and private spaces?

Much like the focus that is being placed on the impact of social media, advancement in artificial intelligence technology, and the collection and sale of personal information for profit, constant surveillance by private individuals, businesses, and government has a profound impact on Californians' lives. Rather than considering the risks of one device or technological advancement at a time, at some point, it might behoove the Legislature, and this Committee in particular, to explore the larger surveillance policy questions, including the dangers associated with the unchecked proliferation of surveillance tools and their impact on Californians' privacy rights.

6) Related legislation. AB 645 (Friedman; Ch. 808, Stats. 2023) establishes a five-year pilot program to give local transportation authorities in the cities of San Jose, Oakland, Los Angeles, Glendale, Long Beach, and the City and County of San Francisco the authority to install speed safety systems.

AB 2336 (Friedman, 2022) was substantially similar to AB 645. That bill was held on suspense in the Assembly Appropriations Committee.

AB 43 (Friedman, Ch. 690, Stats. 2021) granted Caltrans and local authorities greater flexibility in setting speed limits based on recommendations the Zero Traffic Fatality Task Force (Task Force) made in January 2020.

AB 550 (Chiu, 2021) was substantially similar to this bill. That bill was held on suspense in Assembly Appropriations Committee.

SB 735 (Rubio, 2021) would have authorized the use of ASE cameras in school zones. That bill died in the Senate Transportation Committee.

AB 2363 (Friedman, Ch. 650, Stats. 2018) created the Zero Traffic Fatalities Task Force.

AB 342 (Chiu, 2017) would have established a five-year pilot program to give local transportation authorities in the City of San Jose and the City and County of San Francisco the authority to install ASE systems in the two municipalities.

ARGUMENTS IN SUPPORT: The City of Malibu writes of the need for this bill:

PCH runs through 21 miles of Malibu’s picturesque beaches and coastal landscapes. This major thoroughfare is the primary transportation route for 10,654 residents and more than 40,000 commuters and visitors per day. Malibu’s stretch of PCH is uniquely hazardous—with few sidewalks or separated bike lanes, limited parking, extremely heavy visitor traffic, and homes and businesses just feet from passing traffic and few safe ways to cross. Dangerous conditions have significantly worsened by an epidemic of excessive speeding. From 2011 to 2023, there were 58 people killed and hundreds of injuries to drivers, passengers, bicyclists, and pedestrians. In 2023 alone, there were 220 crashes on PCH. Three of the crashes killed seven people and another 93 crashes resulted in injuries.

The Administration and Malibu are committed to an “all of the above” approach to increase road safety along PCH. In partnership with CalSTA, several infrastructure improvements have been made to PCH in Malibu, such as pavement delineation, optical speed reduction bar segments, installation of radar feedback signs, additional road safety signage, “smart corridor” traffic signals, and pedestrian crosswalk enhancements. In addition, the City has helped pay for increased enforcement presence, public awareness campaigns, improved road signage, and enhanced infrastructure. Despite these improvements, speeding remains an untenable risk on PCH in Malibu.

The Alliance for Automotive Innovation writes in support of the bill:

Auto Innovators supports the goal of SB 1297 to reduce fatalities caused by vehicle crashes, which are overwhelmingly linked to instances of speeding. The National Transportation Safety Board (NTSB) has found that speed monitoring systems are an effective mechanism to reduce instances of speeding and therefore reduce fatalities caused by vehicle crashes. This is a proven mechanism in improving safety on highways that is already being used in several other cities. SB 1297 would simply expand the program to the City of Malibu, further increasing highway safety measures.

ARGUMENTS IN OPPOSITION: Arguing in opposition of the bill, the Peace Officers Research Association of California (PORAC) writes:

Law enforcement officers often use discretion and provide drivers an opportunity to mitigate the violation. Verbal and written warnings are often given in place of a ticket. They assess the situation, and after a conversation with the driver, they decide if a verbal or written warning is a better course of action. This discretion saves many low-income individuals and senior citizens their hard-earned dollars. Law enforcement exercises discretion; cameras do not.

Also in opposition, the American Civil Liberties Union – California Action argues:

We joined a coalition of civil society groups last year in expressing concerns about AB 645 (Friedman, 2023), which set up the existing pilot programs. We opposed the bill for a number of racial and economic justice, due process, and privacy concerns. While speed camera

programs may start small, they can expanding surveillance and ticketing regardless of whether they result in fewer speed-related traffic collisions. At that time, in response to our many concerns about these systems, we were told the pilot would be limited in scope to only five cities. Expanding the program to include more cities directly contradicts the negotiations we had on the original pilot program.

Our concerns about automated traffic enforcement systems remain. As we noted last year, surveillance systems like these surveillance and automated systems also often disproportionately impact marginalized communities. While a speeding ticket may seem like a minor penalty, speeding tickets could result in other, life-altering, consequences, particularly for people experiencing poverty. By encouraging the use of surveillance technologies, like automated license plate readers (ALPRs), for enforcement of speed limits, these pilots subject Californians to increased surveillance and perpetuate the false notion that this surveillance benefits the communities that are surveilled. The need to enforce speed limits does not warrant the government collection of large amounts of data on Californians.

REGISTERED SUPPORT / OPPOSITION:

Support

Alliance for Automotive Innovation
City of Malibu
City of West Hollywood
Los Angeles County Sheriff's Department
Streets for All
Sunset Mesa Property Owners Association, INC.

Opposition

ACLU California Action
Electronic Frontier Foundation
Peace Officers Research Association of California (PORAC)
Safer Streets LA

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