

Date of Hearing: May 1, 2025

Fiscal: Yes

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Rebecca Bauer-Kahan, Chair

AB 289 (Haney) – As Amended March 24, 2025

PROPOSED AMENDMENTS

SUBJECT: State highway work zone speed safety program

SYNOPSIS

Last session, the Legislature approved two speed camera pilot projects. The first one, authorized by AB 645 (Friedman, et al; Stats. 2023, Ch. 808) 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. Last year, SB 1297 (Allen; Stats. 2024, Ch. 631) authorizes the City of Malibu to establish a five-year pilot program on the Pacific Coast Highway (PCH).

Similarly, this bill authorizes the Department of Transportation (CalTrans) to establish a five-year pilot project testing the use of up to 75 speed enforcement cameras in the State's highway construction zones when workers are present. The question of whether these systems will help to reduce the number of injuries and deaths of highway construction workers and increase traffic safety is within the jurisdiction of the Transportation Committee. For this Committee, the primary consideration is whether this bill contains adequate measures to protect people's privacy.

The author has included a number of provisions to ensure that the privacy of drivers is protected. For example, the bill requires that photographic or administrative records generated by the speed safety system be confidential, to be used only to administer the program. These records cannot be disclosed to any other person, including any other state or federal government agency or official, except as required by state or federal law, or court order. In addition, the bill includes the same retention requirements contained in the two previous speed camera pilot programs. However, there are other respects in which this bill is not as privacy protective as its predecessors. Proposed Committee amendments in Comment #7 align this bill with the others.

The bill is supported by a number of organizations representing highway construction workers and several automobile associations, among others. It is opposed by the National Motorists Association and seven individuals.

This bill was previously heard by the Transportation Committee, where it passed on a 15-0-1 vote.

THIS BILL:

- 1) Authorizes Caltrans to deploy 75 speed safety systems to enforce speed limits in state highway work zones.
- 2) Defines the following:

- a) “Automated speed violation” means a violation of a speed law detected by a speed safety system.
 - b) “Construction Zone Enhanced Enforcement Program” means a program whereby CalTrans contracts with the California Highway Patrol (CHP) to reimburse them for costs associated with using CHP units to assist with the management of traffic passing through highway construction zones.
 - c) “Department” means the Department of Transportation (CalTrans).
 - d) “Maintenance Zone Enhanced Enforcement Program” means a program whereby CalTrans contracts with the CHP to reimburse them for costs associated with using CHP units to assist with the management of traffic passing through highway maintenance project zones.
 - e) “Speed safety system” means a fixed or mobile radar or lazer system or any other electronic device that utilizes automated equipment to detect a speeding violation and is designed to obtain a clear photograph, video recording, or other visual image of a vehicle license plate.
 - f) “State highway work zone” means a state highway construction or maintenance area during any time when traffic is regulated or restricted.
- 3) Limits the issuance of citations only to instances in which construction or maintenance workers are present.
 - 4) Requires every speed safety system to have a sign stating “photo enforced” along with the speed limit signs with flashing beacons and speed feedback signs, no more than 500 feet before the placement of the system.
 - 5) Requires CalTrans to identify the state highway work zones approved for enforcement using a speed safety system and the hours of enforcement on the department’s website and conduct a public information program.
 - 6) Requires the department to establish guidelines for the screening and issuing of notices of violation and for the processing and storage of confidential information.
 - 7) Requires that the violation notice 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 fines to the owner of the registered vehicle from between \$50 and \$500, dependent upon the speed the vehicle is travelling. Requires that the assessed fine be reduced for people who are indigent.
 - 9) Establishes the fine as a civil penalty and prohibits violations from resulting in loss of the driving privilege or in a violation point being assessed against the violator.
 - 10) Establishes that the photos, videos and administrative records are confidential, and requires that public agencies use and allow access to these records only for the purposes of the automated speed enforcement system.

- 11) Limits how long the confidential records and evidence may be maintained to no more than 60 days after the final disposition of the notice of the violation.
- 12) Limits the retention of administrative records for up to 120 days after the violation,
- 13) Requires that images or video recordings that are obtained from the system that do not result in the issuance of a notice of violation be destroyed within five business days after the image was taken.
- 14) 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.
- 15) Requires, to the extent feasible, for the speed safety system camera to be angled and focused so as to only capture photographs, video recordings, or other visual images of speeding violations and not capture identifying images of other drivers or vehicles.
- 16) Continuously appropriates citation revenue to the Safe Highway Work Zone Account. Funding is directed towards the Construction Zone Enhanced Enforcement Program and the Maintenance Zone Enhanced Enforcement Program.
- 17) Requires Caltrans to issue a report two years after the program has been implemented and annually thereafter.
- 18) Provides that the speed safety system under this pilot may operate for five years, or until January 1, 2032, whichever is sooner.

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.)
- 2) Authorizes the City of Malibu to establish a five year speed safety system pilot program on Pacific Coast Highway. (Veh. Code § 22435.)
- 3) 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.)
- 1) Establishes a “basic speed law” that prohibits a person from driving a vehicle at a speed greater than is reasonable or prudent given the weather, visibility, traffic, highway conditions, and in no event at a speed that endangers the safety of persons or property. (Veh. Code § 22362.)
- 2) Requires a peace officer or “qualified employee” of a law enforcement agency to review the photograph taken by an automated traffic enforcement system and issue a citation, as appropriate. (Veh. Code § 21455.5.)
- 3) Conditions the use of red light cameras on several requirements and procedures, including the following:

- a) Only a governmental agency in cooperation with a law enforcement agency may operate a system.
- b) Intersections equipped with the enforcement systems must be identified by signs visible to traffic in all directions or by signs posted at all major entrances to the participating city.
- c) The city council or county board of supervisors must conduct a public hearing on the proposed use of an automated enforcement system.
- d) Use of the system must be preceded by public notice by the local jurisdiction at least 30 days in advance, and only warning notices may be issued to violators during the first 30 days of the system's operation, after which citations may be issued.
- e) All photographic records are confidential and shall be made available only to the affected governmental agencies for enforcement purposes.
- f) Any driver alleged to be a violator of the red light provisions or the vehicle's registered owner is permitted to review the photographic evidence of the alleged violation.
- g) Citations must be delivered to the driver within 15 days of the alleged violations, with a certificate of mailing obtained as evidence of service, and must include specified information, including how, when, and where the citation may be challenged. (Veh. Code § 21455.5.)

COMMENTS:

1) **Author's statement.** According to the author:

AB 289 is a significant step toward safeguarding the lives of construction workers on our highways, where speeding vehicles pose a significant risk to both workers and motorists. By harnessing the proven effectiveness of Automated Speed Enforcement (ASE), AB 289 will save lives by reducing construction zone crashes and creating a safer environment for California's highway construction workers and drivers.

AB 289 includes clear guidelines, public awareness campaigns, and safeguards for privacy and fairness, ensuring responsible implementation. Additionally, the bill provides a structured appeals process and financial accommodations for low-income individuals, promoting equitable enforcement. With traffic-related work zone fatalities on the rise, this legislation is a crucial step toward saving lives on California's highways.

2) **Effectiveness of speed safety systems.** Based on their review of the data, the Transportation Committee has found that automated speed safety cameras appear to be effective. Specifically, according to their analysis:

According to The National Transportation Safety Board (NTSB), a 2010 review of 28 studies of automated speed enforcement (ASE) in the United States, Canada, Europe, Australia, and New Zealand determined a lower number of crashes after ASE implementation. These

studies reported reductions of 8% to 49% for all crashes and reductions of 11% to 44% for crashes causing serious injuries or fatalities.

According to the National Highway Traffic Safety Administration (NHTSA) “Crash-based evaluations from the United States and Canada have also reported safety benefits from speed safety cameras programs in urban areas. Shin et al. (2009) examined effects of a fixed camera enforcement program applied to a 6.5-mile urban freeway section through Scottsdale, Arizona. The speed limit on the enforced freeway was 65 mph; the enforcement trigger was set to 76 mph. Total *target* (off-peak/free-flow) crashes were reduced by an estimated 44 to 54%, injury crashes by 28 to 48%, and property damage only crashes by 46 to 56% during the 9-month program period.”

As it pertains specifically to road workers, they note:

While numerous safety initiatives have been proposed and implemented in highway work zones over the last two decades, one proven safety countermeasure has been unavailable in California. Automated speed enforcement is proven to reduce speeds, increase driver safety, and save lives. In response to the increasing fatal crashes and injuries in work zones, at least 16 other states have implemented ASE through active construction work zones. In recognition of the well-documented safety benefits of automated speed enforcement, the Federal Highway Administration identified speed safety cameras as a proven safety countermeasure in 2021. This evidence-based designation, as well as related federal statute and guidance, ensures that speed safety cameras can be funded from federal transportation revenues available to the State of California from the Infrastructure Investment and Jobs Act (Pub. L. 117-58) via the Highway Safety Improvement Program (23 U.S.C. 148).

Fourteen states currently have permanent or pilot programs authorizing the use of speed safety cameras in work zones. According to a report issued by the Delaware Department of Transportation, the speed safety cameras resulted in a 46% reduction in total crashes and a 38% reduction in injury crashes. The average speed was reduced by nearly six mph. According to the Pennsylvania Department of Transportation, in the three years prior to the implementation of their pilot program, an average of 1,800 crashes occurred annually in works zones. By 2022 and 2023, three and four years into the program, the number crashes were reduced to below 1,300. The total percentage of speeding vehicles in camera enforced work zones dropped 29%. In July of 2022 only 15% of drivers were going over the speed limit.

In contrast, the National Motorists Association (NMA) argues in opposition that based upon their analysis of OSHA data, very few workers who are injured or killed while working along California’s highways as a result of motorists exceeding the speed limit. They write:

Notwithstanding the claims made by the bill’s author and proponents, severe injuries and fatalities involving highway construction and maintenance workers due to motorists speeding in state highway work zones are, thankfully, relatively rare. The NMA evaluated fatal and severe injury collisions occurring in work zones from 2011 through 2020 from the CHP’s Statewide Integrated Traffic Reporting System (SWITRS) database. As there is no specific data point for collisions involving “highway workers” in the SWITRS database, we used collisions involving “pedestrians” as a proxy.

The total number of “pedestrians” killed in state highway work zones due to a passing motorist traveling too fast for conditions (CVC 22350) during the ten year period was eight, or an average of 0.8 per year. This is an average of less than one fatality per year and represents just 1/50th of 1% (0.02%) of all roadway fatalities and 1.4% of all fatalities occurring in work zones in California. Note that it is undetermined if these “pedestrians” were all highway workers or if the motorist was traveling above the work zone speed limit or just traveling too fast for conditions.

The total number of “pedestrians” seriously injured in state highway work zones due to a passing motorist traveling too fast for conditions was 14, or an average of 1.4 per year. This represents just 1/25th of 1% (0.04%) of all severe injuries and 2.46% of all serious injuries occurring in work zones in California. Note again that it is undetermined if these “pedestrians” were all highway workers or if the motorist was traveling above the work zone speed limit or just traveling too fast for conditions.

3) Privacy concerns related to technology that collects location information. Americans leave a trail of personal data with almost every action they take either in the physical world or online, including every website visited, credit card payment, browser search.¹ As the author notes, Californians are more vulnerable to digital exploitation than ever before.

In the physical world, we cannot step out of our homes without being monitored and tracked. Cars collect location data everywhere we drive. Phones, our constant companions, collect location data everywhere we go. If a car is too old to collect location data and a person leaves their phone at home, license plate readers and traffic cameras are at virtually every intersection, on freeways, at the entrance of parking garages, in store parking lots, and toll roads. These devices are tracking the movement of every single car that passes by. It has become virtually impossible for people to move through the United States without being tracked.

The slow erosion of privacy through the collection of what seem to be relatively small pieces of personal information may not cause people to be overly concerned. However, those pieces of information are being amassed into dossiers that disclose every aspect of the lives of everyone in the United States. The fact that these dossiers are being made available to individuals, private companies, and local, state, and federal government agencies should be cause for alarm. University of Virginia Law Professor Danielle Citron warned in an interview with *The Guardian* in 2022, “We don’t viscerally appreciate the ways in which companies and governments surveil our lives by amassing intimate information about our bodies, our health, our closest relationships, our sexual activities and our innermost thoughts. Companies are selling this information to data brokers, who are compiling dossiers with about 3,000 data points on each of us.”²

As it pertains to this bill, adding up to 75 speed detection cameras along the state’s highways provides yet one more method for tracking people in California because the cameras not only capture the license plate information in a photograph, they also collect the exact time, date, and

¹ Emile Ayoub and Elizabeth Goitein. *Closing the Data Broker Loophole*, The Brennan Center for Justice (Feb. 13, 2024).

² Laurie Clarke. “Interview - Law professor Danielle Citron: ‘Privacy is essential to human flourishing,’” *The Guardian* (Oct. 2, 2022) <https://www.theguardian.com/technology/2022/oct/02/danielle-citron-privacy-is-essential-to-human-flourishing>.

location where the image was taken. However, if the bill appropriately limits the collection, storage, and retention of the data, the information should be adequately protected from being accessed by data brokers who can combine the information with thousands of other data points related to the registered owner of the vehicle.

4) **Privacy protections contained in this bill.** The bill currently restricts the collection and use of the data in the following ways:

- Establishes that the photos, videos and administrative records are confidential, and requires that public agencies use and allow access to these records only for the purposes of the automated speed enforcement system.
- Limits how long the confidential records and evidence may be maintained to no more than 60 days after the final disposition of a notice of violation.
- Limits the retention of administrative records for no more than 120 days after the violation.
- Requires that images or video recordings that are obtained from the system that do not result in the issuance of a notice of violation must be destroyed within five business days after the image was taken.
- Requires that any contracts with vendors who manufacture or supply the systems must include a provision that all data collected is confidential and that the contractor is prohibited from sharing, repurposing, or monetizing collected data.
- Requires, to the extent feasible, for the speed safety system camera to be angled and focused so as to only capture photographs, video recordings, or other visual images of speeding violations and not capture identifying images of other drivers or vehicles.

5) **Analysis.** The question before this Committee is whether gathering additional license plate information using speed cameras constitutes an unnecessary privacy risk for drivers in California. The author has included many of the same privacy protections in this bill as were included in SB 1297 (Allen; Stats. 2024, Ch. 631) and AB 645 (Friedman; Stats. 2023, Ch. 808), which were both passed by this Committee. These provisions ensure that the personal information related to the location of drivers travelling in highway work zones remains protected. For example, the bill makes photographic or administrative records generated by the speed safety system confidential, used only to administer the 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, CalTrans 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 department is also required to destroy any speed safety system data within five days if the data shows no evidence of a speeding violation. 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. Finally, the bill prohibits the use of facial recognition software.

However, certain protections contained in prior bills are absent from this bill. Chief among them is a provision restricting the cameras to taking photographs – of the rear license plate only – and prohibiting them from capturing video footage. In addition, the other pilot projects have a strict prohibition against sharing the collected data with any other person, including the state and federal government. As set forth in Comment #7, the author has agreed to add these additional protections.

6) **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.

7) **Amendments.** The author has agreed to the following amendments to align its privacy protections with those contained in AB 645 and SB 1297:

1. Removes references to “video recording” and “other visual” throughout the bill ensuring that the speed cameras are only allowed to capture photographs of rear license plates.
2. In (c)(5) adds the following clarification:

A speed safety system *records speed violations* and actively issues citations only when construction or maintenance workers are present in the state highway work zone.

3. In (e)(3) limits the sharing of the data in accordance with language in the previous two bills:

The allowable uses for information collected and maintained, ~~including is limited to~~ the administration of the state highway work zone speed safety program *only and compliance with state or federal law, court order, or subpoena in an individual case or proceeding*.

4. In (i)(5) limits the sharing of the data except as required by a court order or subpoena.

ARGUMENTS IN SUPPORT: A coalition of highway construction and maintenance workers organizations write:

AB 289 includes the same data privacy protections as the recently enacted pilot programs for the City of Malibu (Ch. 631, Stats. 2024) and six other pilot cities (Ch. 808, Stats. 2023), both of which were heard in the Assembly Privacy & Consumer Protection Committee. Specifically, the bill includes the following provisions:

- Facial recognition technology shall not be used in conjunction with a speed safety system.
- Information collected and maintained by Caltrans shall only be used to administer the program and shall not be disclosed to others, including state and federal agencies, except as required by law.
- Records of citations are exempted from disclosure under the California Public Records Act.
- Records shall only be used and accessed for the purposes authorized by this law or to assess the impact of the program.
- Data about the number of violations issues and speeds are not administrative records required to be disclosed.
- Confidential Department of Motor Vehicles data used for enforcement and administration shall be held confidential and not used for any other purpose.
- Data regarding the total number of violations and speeds may be retained for only up to 120 days.
- Except for court records, confidential data and records related to a notice of violation may be retained for up to 60 days, or five business days for photographic evidence that does not result in a notice of violation.
- Notice of violation shall exclude rear images of the rear window area of the vehicle.
- Speed safety cameras should be angled to capture only speed violations and not images of other drivers, vehicles, or pedestrians, to the extent possible.

Also writing in support, the Automobile Clubs of Southern California and Northern California, Utah & Nevada note:

The AAA Foundation for Traffic Safety has studied fatal crashes involving roadside assistance providers, finding that they are killed in crashes nearly four times more than what is reported, and that speed, driver distraction, and impairment are often factors. Moreover, nearly 90 percent of these crashes occurred in location with speed limits of 55 miles per hour or higher (nearly all were on interstate highways). Today, California is one of 37 states that require motorists to slow down and move over a lane when overtaking highway maintenance workers. However, such laws are helpful but not enough in reducing roadside collisions. AAAFTS research findings suggest about 60 percent of tow truck drivers, emergency responders, and road maintenance workers have experienced a near miss while working at the roadside and 15 percent have survived being hit by a passing vehicle.

AB 289 is consistent with most of the recommendations in the Automated Enforcement Program Checklist released by AAA and other national highway safety advocates in 2021, including procedures for stakeholder input, public education and information requirements, vendor payments limits, reasonable fine structure, and more. Combined with a sunset date and thorough program evaluation requirement, we believe AB 289 presents an excellent opportunity to successfully pilot speed cameras in works.

ARGUMENTS IN OPPOSITION: The National Motorists Association argues:

Proponents of work zone ticketing cameras make the erroneous assumption that motorists driving at excessive speeds in work zones cause a significant number of injuries and fatalities to highway construction workers. We have shown this assumption to be false. However, one should not entirely discount concerns regarding highway worker safety due to motorists traveling within the work zone. If officials desire closer adherence to the work zone speed limit, Caltrans should employ additional engineering countermeasures to gain greater compliance. These engineering solutions are at least as effective, if not more effective, than sending a ticket in the mail weeks after an alleged violation, and they have the added benefit of providing real-time protection to workers.

[. . .]

Proponents have referenced Pennsylvania's work zone speed camera program, parroting the claim of a greater than a 19% reduction in work zone crashes. This statistic is highly misleading. Although the Automated Work Zone Speed Enforcement (AWZSE) report from PA shows a decrease in collisions in 2020 compared to 2019, the likely cause of reduced crashes during this period is the reduction in traffic volume and construction activities during the pandemic. In fact, crashes in 2021 were significantly higher (+17%) than in 2020, likely due to increased highway travel and construction activity as the State emerged from pandemic restrictions. Further, the NMA compiled the monthly Speed Statistics from each AWZSE annual report from the beginning of Pennsylvania's program in March 2020 through December 2022. There was virtually no change in either the percentage of drivers traveling over the posted speed limit or the percentage of drivers traveling 11+ mph over the speed limit (which the PA program calls excessive speed).

[. . .]

Two years ago, the State enacted AB-645, which created a five-year pilot program to test the effectiveness of automated speed ticketing cameras in California. The legislation set precise guidance as to where and how speed cameras could be used in the State. Before that pilot program has even begun, legislators are already attempting to expand the use of ticketing cameras on state highways throughout the State. Either the camera program authorized under AB-645 is actually a pilot, honestly intended to test the use of speed cameras in California, or it is not. Was the entire exercise of promoting and negotiating a pilot program just a ruse to open the door to ever more automated ticketing? Or will we be guided by ethical principles and refrain from approving more speed camera usage until AB-645's pilot program results are known? There is no urgency to authorize ticketing cameras on California highways, specifically in light of the data provided above, which clearly shows that little is to be gained by rushing to implement this abusive technology.

REGISTERED SUPPORT / OPPOSITION:

Support

American Automobile Association of Northern California, Nevada & Utah
Associated General Contractors of California
Auto Club of Southern California
California-nevada Conference of Operating Engineers
California Alliance for Jobs
California Asphalt Pavement Association
California Construction & Industrial Materials Association
California State Council of Laborers
Madera County Transportation Commission
Rebuild Social Partnership
Southern California Contractors Association
State Building and Construction Trades Council of California
Transportation Authority of Marin
Transportation California
United Contractors

Opposition

7 Individuals

Oppose Unless Amended

National Motorists Assoc

Analysis Prepared by: Julie Salley / P. & C.P. / (916) 319-2200