

Date of Hearing: April 25, 2022

ASSEMBLY COMMITTEE ON TRANSPORTATION

Laura Friedman, Chair

AB 2773 (Holden) – As Amended April 7, 2022

SUBJECT: Traffic or pedestrian stops: notification by peace officers

SUMMARY: Requires a peace officer making a traffic or pedestrian stop to state the reason for the stop before asking any questions, unless the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat. Requires the Department of Motor Vehicles (DMV) to include this requirement in the California Driver's Handbook (Handbook). Specifically, **this bill:**

- 1) Requires a peace officer making a traffic or pedestrian stop to state the reason for the stop before asking any questions unless the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat, including but not limited to, cases of terrorism or kidnapping.
- 2) Requires DMV to include information regarding the duty of a peace officer to state the reason for the stop in the handbook at the earliest opportunity when the Handbook is otherwise revised or reprinted.
- 3) Provides that failure to make the required statement is grounds for filing a motion to suppress using the procedures established in Penal Code section 1538.5.
- 4) Requires the officer to document the reason for the stop on any citation or police report resulting from the stop.

EXISTING LAW:

- 1) Requires DMV to publish a synopsis or summary of the laws regulating the operation of vehicles and the use of highways.
- 2) Requires DMV to include within the Handbook a section on a person's civil rights during a traffic stop, including:
 - a) The limitations on a peace officer's authority during a traffic stop; and,
 - b) The legal rights of drivers and passengers, including, but not limited to, the right to file complaints against a peace officer.
- 3) Requires DMV to develop this section in consultation with the civil rights section of the Department of Justice (DOJ), California Highway Patrol (CHP), California Commission on Peace Officer Standards and Training (POST), and civil rights organizations, including community-based organizations.

- 4) Provides that the information shall be included in the Handbook at the earliest opportunity when the Handbook is revised or reprinted.
- 5) Prohibits unreasonable searches and seizures.
- 6) Specifies procedures for a defendant in a criminal action to move to suppress evidence obtained as the result of an illegal search or seizure.
- 7) Provides that a defendant may move for the return of property or to suppress evidence obtained as a result of a search or seizure if either of the following is true:
 - a) The search without a warrant was unreasonable; or
 - b) The search or seizure with a warrant was unreasonable because the warrant is insufficient on its face; the property or evidence obtained is not that described in the warrant; there was not probable cause for the issuance of the warrant; the method of execution of the warrant violated federal or state constitutional standards; or, there was any other violation of federal or state constitutional standards.
- 8) Provides that at any hearing on a motion to suppress, the court may hear evidence on any issue of fact necessary to reach a proper ruling of the motion.
- 9) Provides that any person in a trial, hearing, or proceeding may move to suppress any electronic information obtained or retained in violation of the Fourth Amendment or the Electronic Communications Privacy Act (ECPA). The motion shall be made, determined, and be subject to review in accordance with the procedures set forth in Penal Code section 1538.5.
- 10) States that only relevant evidence is admissible, and except as otherwise provided by statute, all relevant evidence is admissible.
- 11) Provides that relevant evidence shall not be excluded in any criminal proceeding, including pretrial and post-conviction motions and hearings, or in any trial or hearing of a juvenile for a criminal offense, whether heard in juvenile or adult court, subject to the existing statutory role of evidence relating to privilege or hearsay, or inadmissibility.
- 12) Defines “relevant evidence” as meaning evidence, including evidence relevant to the credibility of a witness or hearsay declarant, having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action.

FISCAL EFFECT: Unknown

COMMENTS: DMV publishes the Handbook annually, which provides a synopsis of existing law and rules of the road. The Handbook provides a more accessible means for potential and current drivers to understand the rules of the road, and is used as the basis for a written exam when an applicant applies for a driver’s license. DMV puts this document together on its own and state statute has a few requirements for particular sections of the Handbook.

In 2018 the Legislature passed AB 2918 (Holden), Chapter 723, which required DMV to include in the Handbook a section written by the civil rights section of DOJ about a person's civil rights during a traffic stop and the legal rights of the drivers and passengers. The 2021 Handbook includes two pages on the subject.

This bill adds a requirement for law enforcement to notify an individual as to why they were stopped, and then adds information about this requirement in the Handbook.

According to the author, "To promote equity and accountability in communities across California — that is my goal. AB 2773 brings transparency to service of protecting our public."

According to the Public Defenders Association, "AB 2773 would increase transparency and public confidence in law enforcement by requiring an officer to immediately reassure the individual of the reason for the stop. Unfortunately, some officers launch into a series of questions that may have no apparent relationship to any basis for the stop. The longer the questioning goes on the more apprehensive the individual becomes of the officer's true motives. However, when confronted by an officer they may feel compelled to answer the questions when in fact they are not required to do so. If informed at the outset of the basis for the stop, the individual would know if any subsequent questions are legitimate or an attempt to elicit incriminating statements or acquiescence to a search."

The California Highway Patrolmen Association, writing in opposition of this bill, argue "CHP's current policy is to announce the reason for the stop upfront. They are trained to do that and have no issue with that. This bill however takes it a step further. If an officer fails to announce the reason for the stop – except under imminent threat to life or property – the motion to suppress clause allows evidence to be thrown out and therefore the violator gets off.

As you can imagine, there are various factors involved with a traffic stop, such as traffic hazards, an immediate, spontaneous statement by the violator, location of the stop, method of apprehending the violator, etc. In addition, there are often situations where an officer is unaware of crimes afoot or that have previously occurred. What about a situation where an officer pulls someone over for speeding, and then as the officer has the driver signing the ticket, he/she notices illicit drugs on the floorboard and subsequently arrests the driver. With this bill, the criminal violation could get thrown out in court because that was not the reason announced for the stop."

For a discussion on the requirement on requiring a law enforcement officer to notify an individual as to the reason they were stopped and a discussion on the motion to suppress portion of this bill, see the analysis prepared by Assembly Public Safety Committee.

Committee comments: The Legislature should consider if it's proper to dictate new items in the Handbook, or to let DMV decide what information is pertinent to learning how to drive and the rules of the road.

Related Legislation:

AB 2537 (Gipson) requires Department of Motor Vehicles, in conjunction with the Department of Justice and the Commission on Peace Officer Standards and Training, to develop and create a video showing the proper conduct by a peace officer during a traffic stop and to post the video on its internet website. That bill passed out of this Committee and is pending in Assembly Public Safety Committee.

Prior Legislation: AB 2918 (Holden), Chapter 723, Statutes of 2018 required the DMV to include within the Handbook a section on a person's civil rights during a traffic stop.

REGISTERED SUPPORT / OPPOSITION:**Support**

ACLU California Action
California for Safety and Justice
California Hawaii State Conference of the NAACP
California Public Defenders Association
Californians United for a Responsible Budget
Ella Baker Center for Human Rights
Initiate Justice
National Association of Social Workers, California Chapter
Oakland Privacy
The Young Women's Freedom Center

Oppose

California State Sheriffs' Association
Peace Officers Research Association of California (PORAC)

Oppose Unless Amended

California Association of Highway Patrolmen
Deputy Sheriffs Association of San Diego County
Los Angeles Police Protective League

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