

CONCURRENCE IN SENATE AMENDMENTS

AB 2773 (Holden)

As Amended August 11, 2022

Majority vote

SUMMARY

Requires, beginning January 1, 2024, a peace officer making a traffic or pedestrian stop to state the reason for the stop before asking any questions related to a criminal investigation or traffic violation, unless the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat.

Senate Amendments

- 1) Specify that the limitation on peace officer questioning before stating the reason for the stop applies to questions related to a criminal investigation or a traffic violation.
- 2) Require each state and local agency to include in its annual report to the Attorney General of data on stops to include the reason given to the person stopped at the time of the stop.
- 3) Delay implementation until January 1, 2024.

COMMENTS

As Passed by the Assembly, this bill:

- 1) Required 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) Required the officer to document the reason for the stop on any citation or police report resulting from the stop.
- 3) Required the Department of Motor Vehicles (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.

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."

Arguments in Support

According to the *California Public Defenders Association*, "It is a common experience for community members to be stopped on our streets and highways by peace officers for minor traffic violations and pedestrian offenses. Those community members are obliged to stop for the officer, and failure to do so is at least a misdemeanor, which could subject them to a custodial arrest. Most people are nervous and apprehensive after being stopped by an officer who can deprive them of their liberty.

"In October of 2021, the Public Policy Institute of California (PPIC) published a report entitled, 'Racial Disparities in Law Enforcement Stops.' In its report, which analyzed data for almost four million stops by California's 15 largest law enforcement agencies in 2019 it found the following:

Black Californians are significantly more likely to be stopped than white individuals.

Black individuals are more than twice as likely to be searched as white individuals.

Black people are at least twice as likely as whites to experience so-called intrusive outcomes, ranging from being asked to step out of a vehicle, to being handcuffed, to the stop involving a weapon. Stops of Black individuals are three times more likely to involve a weapon than stops of white individuals. In CHP stops for traffic violations, almost everyone, Black or white, receives at least a warning, 98.5% and 98.6%, respectively. While being stopped for a traffic

violation rarely results in a booking, both state and local law enforcement agencies book Black drivers more often than white, about 3.5% and 2.5% respectively.

"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.

"As public defenders we see the disproportionate effect on our black and brown clients who are more likely to be searched and arrested following a traffic stop. Many times, there were handcuffed and left sitting on the side of the road, while their vehicles were searched. Other times, once the officer pulled them over, the first thing the officer said was 'are you on probation or parole?'

"AB 2773 is good commonsense public policy. The many officers who do not engage in such tactics would be benefitted by measures that discourage the offending few from doing so. The good public policy reasons behind this bill are further enhanced by its efforts to educate the public of their civil rights through the DMV handbook. Preserving civil rights is every bit as important as preserving public safety on our highways. Civil rights that are forfeited out of ignorance are not civil rights and serve only to reward those who seek to capitalize on that ignorance."

Arguments in Opposition

According to the *California State Sheriffs' Association*, "When a peace officer initiates a stop, there are many variables that must be considered and information that should be gathered. Traffic stops can be among the most dangerous types of interactions that peace officers encounter and it often makes sense for an officer to seek and obtain additional information at the very beginning of a contact. This can be vital in assessing the risk emanating from the stop, and peace officers are trained that determining risk surrounding a traffic stop is a key consideration. This bill's limitation is so strict, in fact, that it prohibits an officer from asking for a person's identification or even asking a person to turn off the vehicle's ignition prior to disclosing the reason for the stop. Obtaining more information from the subject of the stop is vital to protecting

everyone's safety and the bill's exception based on an 'imminent threat' is not enough to address all situations imbued with risk."

FISCAL COMMENTS

According to the Senate Appropriations Committee:

- 1) CHP: The California Highway Patrol (CHP) reports costs of approximately \$160,000 for information technology changes that would required to collect and report additional "stop data" information to the Department of Justice (Special Fund – Motor Vehicle Account).
- 2) DOJ: The Department of Justice reports costs of \$43,000 in 2022-23 for consulting services for application development and to assist with analysis and design, database modification, web application development, web services development, deployment and follow-up (General Fund).
- 3) DMV: Staff notes likely minor and absorbable costs to the DMV to update the Driver's Handbook (Special Fund – Motor Vehicle Account).
- 4) Local Reimbursements: Unknown, potentially significant costs for all 608 state and local agencies employing peace officers to update policies regarding pedestrian and traffic stops and provide the training necessary to comply with the reporting requirements of AB 2773 (Local Funds, General Fund). Costs to the General Fund will depend predominantly on whether the duties imposed by this bill constitute a reimbursable state mandate, as determined by the Commission on State Mandates.

VOTES:**ASM PUBLIC SAFETY: 5-2-0****YES:** Jones-Sawyer, Mia Bonta, Bryan, Quirk, Santiago**NO:** Lackey, Seyarto**ASM TRANSPORTATION: 10-4-1****YES:** Friedman, Berman, Daly, Gipson, Kalra, Lee, Medina, O'Donnell, Ward, Wicks**NO:** Fong, Chen, Davies, Nguyen**ABS, ABST OR NV:** Nazarian**ASM APPROPRIATIONS: 12-4-0****YES:** Holden, Bryan, Calderon, Carrillo, Mike Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Wilson**NO:** Bigelow, Megan Dahle, Davies, Fong**ASSEMBLY FLOOR: 43-22-13****YES:** Arambula, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, McCarty, Medina, Mullin, Nazarian, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon**NO:** Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Muratsuchi, Nguyen, Patterson, Salas, Seyarto, Smith, Valladares, Voepel, Waldron**ABS, ABST OR NV:** Aguiar-Curry, Berman, Cooley, Cooper, Daly, Grayson, Maienschein, Mayes, O'Donnell, Petrie-Norris, Ramos, Rodriguez, Villapudua**UPDATED**

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