

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: April 15, 2005

To: The Commission
(Meeting of April 21, 2005)

From: Delaney Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 1067 (Frommer) Railroad Safety**
As amended April 11, 2005

Legislative Subcommittee Recommendation: Support

Summary: This bill:

- 1) Makes it a crime to unlawfully and with gross negligence place any obstruction on a railroad track or commit another act proximately results in the damaging or derailling of a train, or injury to passengers or staff, punishable by imprisonment or fine, or both.
- 2) Permits a court in a county with a population greater than 500,000 persons to order persons, for violations of certain provisions relating to failure to stop a vehicle at a highway-railroad grade crossing, to attend a rail safety presentation or Internet rail safety test, in addition to the already allowed rail transit safety film,
- 3) Clarifies that fines collected for violations so-related are distributed under the already applicable Penal Code section 1463.12,
- 4) Adds several vehicle code sections to the violations for which the court may order those convicted to attend traffic safety schools with the requisite rail transit safety films, rail safety presentations or Internet rail safety tests,
- 5) Authorizes the California Transportation Commission (CTC) to reduce or eliminate entirely the required contribution of a local agency for grade separation projects,
- 6) Authorize the CTC to allocate up to \$15,000,000 to the highest priority project on the CPUC's grade separation priority list, and

- 7) Adds certain transit, railroad and various other cited violations of Vehicle Code Section 22526 as “stopping” violations.

Digest: Existing law provides that it is unlawful for a person to take various actions with the intent to derailing or wrecking a train. A violation is punishable as a felony by life imprisonment without possibility of parole.

This bill would provide that a person who unlawfully and with gross negligence places any obstruction on a railroad track or who commits another act that proximately results in the damaging or derailing of a train, or injury to passengers or staff, in guilty of a crime punishable by imprisonment or fine, or both.

Existing law authorizes a court in a county with a population greater than 500,000 persons to order a person convicted of certain traffic violations relating to rail transit to attend a traffic school that offers, as a part of its curriculum, a film on rail transit safety, and to pay certain fines in addition to the fines regularly imposed for a violation.

This bill would permit a court described above to order attendance, instead, at a traffic safety school that includes a rail safety presentation or Internet rail safety test. The bill would add additional rail transit-related violations to the existing list of rail transit-related violations that are subject to the above described law.

Existing law prohibits certain actions by the drivers of a motor vehicle if those actions would create certain obstructions with respect to intersections or railroad crossings, and provides that violations of these provisions are parking violations, or stopping violations dependent upon the authority of the peace officer who issued the notice to appear.

This bill would provide that violations of these provisions issued by certain transit, railroad, or various police officers are stopping violations.

Existing law imposes a fine of \$100 for a first offense, \$200 for a second offense occurring within one year of a prior offense, and \$250 for a third or subsequent offense occurring within one year of 2 or more prior offenses, for a violation of certain provisions relating to failure to stop a vehicle at a railroad grade crossing.

This bill would add certain railroad grade crossing violations to the list of provisions that are subject to the fines specified above.

Existing law requires each annual proposed budget of the Department of Transportation to include \$15,000,000 for railroad-highway grade separation projects.

This bill would increase that amount to \$30,000,000. The bill would also require each budget to include \$20,000,000 in federal grade crossing improvement funds for allocation to grade separation projects.

Existing law requires the Public Utilities Commission to adopt a priority list for railroad-

highway grade separation projects and requires the California Transportation Commission to allocate available funding to projects pursuant to the priority list. Existing law requires a 20% match from other funds for projects eliminating an existing crossing or altering or reconstructing an existing grade separation, including a 10% match from the affected railroad. Existing law generally limits to \$5,000,000 an allocation to a single project.

This bill would authorize the California Transportation Commission to reduce or eliminate entirely the required contribution of a local agency for these projects. The bill would authorize the commission to allocate up to \$15,000,000 to the highest priority project on the priority list.

Division Analysis (CPSD):

The bill would allow the courts flexibility in meeting the rail safety education aims of the code section by allowing rail safety “presentations” or “Internet rail safety test” in addition to the already allowed “rail transit safety film”.

The bill would clarify that fines collected for the listed violations are distributed under Penal Code 1463.12, which already applies, but which specifically earmarks 30% of fine monies to local transit agencies for public safety and public education purposes relating to railroad grade crossings.

The bill would increase awareness of rail hazards for violators of certain additional vehicle code sections relating to improper stops at highway-rail crossings or drivers who may proceed by driving around, through or under crossing gate arms, by requiring education and training for drivers having been cited or convicted that is relevant to their actual violation.

The bill would add certain transit, railroad and other various cited violations of Vehicle Code Section 22526, as a “stopping” violation. VC Section 22526 pertains to not proceeding into a railroad crossing unless there is sufficient room on the other side to fully clear the tracks.

The bill would allow the CTC to reduce or entirely eliminate the requirement that local government agencies match funds for grade separation projects and would allow the CTC to allocate up to \$15,000,000 to the highest priority project on the CPUC’s grade separation list. Currently, local government agencies struggle, given ongoing budget constraints, to find matching funds for high priority grade separation projects. Thus some the highest priority projects remain on the list for years.

Also, current law limits the CTC from allocating more than \$5,000,000 to a single project when in fact grade separation projects are amongst the most expensive transportation projects to construct and can sometimes cost upwards of \$20 to 30, 000,000. This provision of AB 1067 would allow the CTC to dedicate real money to the highest priority

grade separation projects in the State and finally make a dent in a long list of priority projects.

If this program prevents only one fatality or one serious injury through educating a motorist convicted or cited for violations relating to highway-rail crossings, the program would have positive value.

Fiscal Analysis: The bill would produce no fiscal impact on the Commission.

Recommended Amendments: N/A

LEGISLATIVE HISTORY

Some contents of this legislation were included in AB 1085 (Montanez) vetoed by the Governor last session.

STATUS

Scheduled to be heard in the Assembly Committee on Transportation on April 18, 2005.

SUPPORT/OPPOSITION

Support: Metrolink (sponsor), California Firefighters Association, California Rail Industry Association, Los Angeles County Sheriff's Department

Opposition: None on file.

STAFF CONTACT

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Date: April 15, 2005

BILL LANGUAGE:

BILL NUMBER: AB 1067 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY APRIL 11, 2005

INTRODUCED BY Assembly Member Frommer

FEBRUARY 22, 2005

An act to amend ~~Section 369b~~ Sections 369b and 1463.12 of , and to add Section 218.1 to, the Penal Code, to amend Sections 190 and 2454 of, and to add Section 190.1 to, the Streets and Highways Code, and to amend Sections 22526 , 42001.1, and 42001.16 of the Vehicle Code, relating to ~~vehicles~~ railroads

LEGISLATIVE COUNSEL'S DIGEST

AB 1067, as amended, Frommer. ~~Vehicles: railroad grade crossings: violations: penalties~~ Railroads .

(1) Existing law provides that it is unlawful for a person to take various actions with the intent to derailing or wrecking a train. A violation is punishable as a felony by life imprisonment without possibility of parole.

This bill would provide that a person who unlawfully and with gross negligence places any obstruction on a railroad track or who commits another act that proximately results in the damaging or derailing of a train, or injury to passengers or staff, in guilty of a crime punishable by imprisonment or fine, or both. By creating a new crime, the bill would impose a state-mandated local program.

—(1)—

(2) Existing law authorizes a court in a county with a population greater than 500,000 persons to order a person convicted of certain traffic violations relating to rail transit to attend a traffic school that offers, as a part of its curriculum, a film on rail transit safety, and to pay certain fines in addition to the fines regularly imposed for a violation.

This bill would permit a court described above to order attendance, instead, at a traffic safety school that includes a rail safety presentation or Internet rail safety test. The bill would add additional rail transit-related violations to the existing list of rail transit-related violations that are subject to the above described law.

—(2)—

(3) Existing law prohibits certain actions by the drivers of a motor vehicle if those actions would create certain ~~vehicular~~ obstructions with respect to intersections or railroad crossings , and provides that

violations of these provisions are parking violations, or stopping violations dependent upon the authority of the peace officer who issued the notice to appear.

This bill would provide that violations of these provisions issued by ~~the Bay Area Rapid Transit~~ certain transit, railroad, or various police officers are stopping violations.

~~—(3)—~~

(4) Existing law imposes a fine of \$100 for a first offense, \$200 for a second offense occurring within one year of a prior offense, and \$250 for a third or subsequent offense occurring within one year of 2 or more prior offenses, for a violation of certain provisions relating to failure to stop a vehicle at a railroad grade crossing.

This bill would add certain railroad grade crossing violations to the list of provisions that are subject to the fines specified above.

(5) Existing law requires each annual proposed budget of the Department of Transportation to include \$15,000,000 for railroad-highway grade separation projects.

This bill would increase that amount to \$30,000,000. The bill would also require each budget to include \$20,000,000 in federal grade crossing improvement funds for allocation to grade separation projects.

(6) Existing law requires the Public Utilities Commission to adopt a priority list for railroad-highway grade separation projects and requires the California Transportation Commission to allocate available funding to projects pursuant to the priority list. Existing law requires a 20% match from other funds for projects eliminating an existing crossing or altering or reconstructing an existing grade separation, including a 10% match from the affected railroad. Existing law generally limits to \$5,000,000 an allocation to a single project.

This bill would authorize the California Transportation Commission to reduce or eliminate entirely the required contribution of a local agency for these projects. The bill would authorize the commission to allocate up to \$15,000,000 to the highest priority project on the priority list.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~
yes . State-mandated local program: ~~no~~
yes .

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the

following:

(a) Both failing to stop at a stop sign located near a railroad grade crossing and stopping on the railroad track as a result of gridlock or congestion are serious offenses that cause death, injury, and destruction of property and more importantly, endanger the lives of people riding in the vehicle and the train, and pedestrians.

(b) The horrific accidents caused by drivers who fail to stop at a stop sign or cause gridlock on the tracks contribute to California's dubious honor of ranking in the top tier of highway grade crossing injury and deaths nationwide.

(c) The fines authorized under existing law are insufficient for these serious and potentially life threatening traffic offenses and should be consistent with the fine for attempting to maneuver around an active grade crossing gate arm.

(d) Increasing the fines for these offenses and dedicating a significant portion of the fines to railroad crossing education will permit local agencies to increase awareness of rail safety. Education programs have been demonstrated to reduce the number of accidents on the railroad, thereby saving lives and reducing personal injury and property damage.

SEC. 2. *Section 218.1 is added to the Penal Code*
, to read:

218.1. Any person who unlawfully and with gross negligence places any obstruction upon or near the track of any railroad or commits another act that proximately results in the damaging or derailling of any passenger, freight, or other train, or that proximately causes injuries to rail passengers or train staff, shall be punished by imprisonment in the state prison for two, three, or four years, or by imprisonment in a county jail for not more than one year, or by a fine not to exceed two thousand five hundred dollars (\$2,500), or by both that imprisonment and fine.

~~SEC. 2.~~

SEC. 3. *Section 369b of the Penal Code is amended to read:*

369b. (a) This section shall only apply to counties with a population greater than 500,000.

(b) The court may order any person convicted of a rail transit related traffic violation, as listed in subdivision (c), to attend a traffic school that offers, as a part of its curriculum, a film developed or caused to be developed by a transportation commission or authority on rail transit safety.

(c) For a first offense, a court, at its discretion, may order any person cited for any of the following violations to attend a traffic school offering a rail safety presentation, Internet rail safety test, or rail transit safety film prepared by a county transportation commission or authority, pay an additional fine of one hundred dollars (\$100), or both:

(1) Section 369g.

(2) Section 369i.

(3) Subdivision (c) of Section 21752, Section 22450, 22451, or 22452, or subdivision (c) of Section 22526, of the Vehicle Code, involving railroad grade crossings.

(d) For a second or subsequent violation as provided in subdivision (c), a court shall order a person to pay an additional fine of up to two hundred dollars (\$200) and to attend a traffic school offering a rail safety presentation, Internet rail safety

test, or rail safety film prepared by a county transportation commission or authority.

(e) All fines collected according to this section shall be distributed pursuant to Sections 1463 and 1463.12, as applicable.

SEC. 4. *Section 1463.12 of the Penal Code is amended to read:*

1463.12. Notwithstanding Sections 1463 and 1464 of this code and Section 76000 of the Government Code, moneys that are collected for a violation of subdivision (c) of Section 21752 or Section 22450 of the Vehicle Code, involving railroad grade crossings, or Section 22451 ~~or~~ , 22452 , or subdivision (c) of Section 22526 of the Vehicle Code, and that are required to be deposited with the county treasurer pursuant to Section 1463 of this code shall be allocated as follows:

(a) If the offense occurred in an area where a transit district or transportation commission or authority established under Division 12 (commencing with Section 130000) of the Public Utilities Code provides rail transportation, the first 30 percent of the amount collected shall be allocated to the general fund of that transit district or transportation commission or authority to be used only for public safety and public education purposes relating to railroad grade crossings.

(b) If there is no transit district or transportation commission or authority providing rail transportation in the area where the offense occurred, the first 30 percent of the amount collected shall be allocated to the general fund of the county in which the offense occurred, to be used only for public safety and public education purposes relating to railroad grade crossings.

(c) The balance of the amount collected shall be deposited by the county treasurer under Section 1463.

(d) A transit district, transportation commission or authority , or a county that is allocated funds pursuant to subdivision (a) or (b) shall provide public safety and public education relating to railroad grade crossings only to the extent that those purposes are funded by the allocations provided pursuant to subdivision (a) or (b).

SEC. 5. *Section 190 of the Streets and Highways Code is amended to read:*

190. Each annual proposed budget prepared pursuant to Section 165 shall include the sum of ~~fifteen~~ thirty

million dollars ~~—(\$15,000,000)~~ (\$30,000,000) , which sum may include federal funds available for grade separation projects, for allocations to grade separation projects, in accordance with Chapter 10 (commencing with Section 2450) of Division 3. The funds included for ~~such~~ those purposes pursuant to this section each fiscal year, or by any other provision of law, shall be available for allocation and expenditure without regard to fiscal years.

SEC. 6. *Section 190.1 is added to the Streets and Highways Code , to read:*

190.1. Each annual proposed budget prepared pursuant to Section 165 shall include the sum of twenty million dollars (\$20,000,000) in federal funds from the federal Railroad-Highway Grade Crossing (Section 130) program and make the funds available for allocations to grade separation projects, in accordance with Chapter 10 (commencing with Section 2450) of Division 3. The funds included for those

purposes pursuant to this section each fiscal year, or by any other provision of law, shall be available for allocation and expenditure without regard to fiscal years.

SEC. 7. *Section 2454 of the Streets and Highways Code is amended to read:*

2454. Allocations made pursuant to Section 2453 shall be made on the basis of the following:

(a) An allocation of 80 percent of the estimated cost of the project shall be made; except that whenever contributions from other sources exceed 20 percent of the estimated cost, the allocation shall be reduced by the amount in excess of 20 percent of the estimated cost.

(b) An allocation of 50 percent of the estimated cost of the project shall be made for a proposed crossing.

(c) No allocation shall be made in excess of 50 percent of the estimated cost of the project unless the grade crossing to be eliminated has been in existence for at least 10 years prior to the date of allocation.

(d) (1) On projects which eliminate an existing crossing, or alter or reconstruct an existing grade separation, no allocation shall be made unless the railroad agrees to contribute 10 percent of the cost of the project.

(2) *On projects subject to this subdivision, the California Transportation Commission may reduce or eliminate entirely the required contribution of a local agency.*

(e) Where a project does not include a grade separation, but eliminates existing grade crossing or crossings, the allocation shall not exceed the estimated allocation that would have been made for the grade separation which is no longer needed because of the elimination of the grade crossing by the project and which is indicated on the priority list to be urgently in need of grade separation.

(f) Where the project includes the separation of a highway and a railroad passenger service operated by a city or county, the operating agency shall contribute 20 percent of the cost of the project. The priority listing for such projects shall be in accordance with criteria established for such railroad passenger service by the Public Utilities Commission.

(g) (1) Notwithstanding subdivisions (a) to (f), inclusive, the total of such allocations for a single project shall not exceed five million dollars (\$5,000,000) without specific legislative authorization, except that the amount for a single project may be increased to either (1) an amount that includes the federal construction cost index increase each year since 1976, or (2) an amount which does not exceed one-third of the total funds appropriated for grade separation projects for the year of allocation, whichever amount is less, as determined each year by the Public Utilities Commission.

(2) *Notwithstanding paragraph (1), the California Transportation Commission may allocate up to fifteen million dollars (\$15,000,000) to a single project if that project is the highest ranking project on the priority list established by the Public Utilities Commission pursuant to Section 2452.*

(~~h~~ h.) Notwithstanding subdivisions (a) to (g), inclusive, a single project in excess of five million dollars (\$5,000,000), but not exceeding twenty million

dollars (\$20,000,000), shall be considered without specific legislative authority, if the project (1) is included in the Public Utilities Commission's priority list of projects scheduled to be funded, (2) eliminates the need for future related grade separation projects, (3) provides projected cost savings of at least 50 percent to the state or local jurisdiction, or both of them, by eliminating the need for future projects, and (4) alleviates traffic and safety problems or provides improved rail service not otherwise possible. Projects approved pursuant to this subdivision shall be funded over a multiyear period, not to exceed five years, and the allocation for any one of those years shall not exceed the amount prescribed by subdivision (g) for a single project. An agency which has received an allocation for a project approved pursuant to this subdivision shall not be eligible for an allocation for another project under this subdivision for a period of 10 years from the date of approval of that project. Not more than one-half of the total allocation available in any one fiscal year for grade separation projects may be used for the purposes of this subdivision.

(i) Notwithstanding any of the above provisions of this section or any other provision of law, when the state or local agency uses funds derived from federal sources in financing its share of project costs, the railroad contribution, where required by federal law or regulation, shall be computed pursuant to federal law. However, the allocation made pursuant to this chapter shall be computed as though such matching contribution was derived from nonfederal sources and shall be computed as though the railroad had made its contribution pursuant to state law rather than pursuant to federal law. Where the contribution of the railroad is computed according to federal law or regulation because of the use of federal funds in the allocation for a project, the allocation shall be increased by the amount the share of the railroad is reduced below 10 percent of the estimated cost of the project.

~~SEC. 3.~~

SEC. 8. Section 22526 of the Vehicle Code is amended to read:

22526. (a) Notwithstanding any official traffic control signal indication to proceed, a driver of a vehicle shall not enter an intersection or marked crosswalk unless there is sufficient space on the other side of the intersection or marked crosswalk to accommodate the vehicle driven without obstructing the through passage of vehicles from either side.

(b) A driver of a vehicle which is making a turn at an intersection who is facing a steady circular yellow or yellow arrow signal shall not enter the intersection or marked crosswalk unless there is sufficient space on the other side of the intersection or marked crosswalk to accommodate the vehicle driven without obstructing the through passage of vehicles from either side.

(c) A driver of a vehicle shall not enter a railroad or rail transit crossing, notwithstanding any official traffic control device or signal indication to proceed, unless there is sufficient space on the other side of the railroad or rail transit crossing to accommodate the vehicle driven or there is sufficient undercarriage clearance to cross the intersection without obstructing the through passage of a railway vehicle, including, but not limited to, a train, trolley, or city transit vehicle.

(d) A local authority may post appropriate signs at the entrance

to intersections indicating the prohibition in subdivisions (a), (b), and (c).

(e) A violation of this section is not a violation of a law relating to the safe operation of vehicles and is the following:

(1) A stopping violation when a notice to appear has been issued by a peace officer described in Section 830.1, 830.2, or 830.33 of the Penal Code.

(2) A parking violation when a notice of parking violation is issued by a person, other than a peace officer described in paragraph (1), who is authorized to enforce parking statutes and regulations.

(f) This section shall be known and may be cited as the Anti-Gridlock Act of 1987.

SEC. 9. *Section 42001.1 of the Vehicle Code is amended to read:*

42001.1. (a) Every person convicted of an infraction for a violation of Section 2815 or a violation of *subdivision (a) or (b) of* Section 22526 at an intersection posted pursuant to subdivision (d) of Section 22526 shall be punished as follows:

(1) For a first conviction, a fine of not less than fifty dollars (\$50) nor more than one hundred dollars (\$100).

(2) For a second conviction within a period of one year, a fine of not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200).

(3) For a third or any subsequent conviction within a period of two years, a fine of not less than two hundred fifty dollars (\$250) nor more than five hundred dollars (\$500).

(b) In addition to the fine specified in subdivision (a), the court may order the department to suspend the driver's license for up to 30 days of any person convicted of a third or any subsequent conviction of Section 2815 within a period of two years, and the department shall suspend the license for the period of time so ordered.

~~SEC. 4.~~

SEC. 10. *Section 42001.16 of the Vehicle Code is amended to read:*

42001.16. (a) Every person convicted of an infraction for a violation of subdivision (c) of Section 21752, subdivision (c) of Section 22526, or Section 22450, involving railroad grade crossings, or Section 22451 or 22452 shall be punished as follows:

(1) For the first infraction, by a fine of one hundred dollars (\$100).

(2) For a second infraction of any of the offenses described in this subdivision occurring within one year of a prior infraction that resulted in a conviction, by a fine not exceeding two hundred dollars (\$200).

(3) For a third or any subsequent infraction of any of the offenses described in this subdivision occurring within one year of two or more prior infractions that resulted in convictions, by a fine not exceeding two hundred fifty dollars (\$250).

(b) In addition to the fine imposed pursuant to subdivision (a), a court, in a county in which Section 369b of the Penal Code applies, may require the person to attend a traffic school as described in Section 369b of the Penal Code.

SEC. 11.

If the Commission on State Mandates determines that this act

contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.