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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

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**Bill No:** AB 256                      **Hearing Date:** June 13, 2023  
**Author:** Dixon  
**Version:** April 17, 2023  
**Urgency:** No                              **Fiscal:** Yes  
**Consultant:** AB

**Subject:** *Vehicles: registration*

## HISTORY

**Source:** Author

**Prior Legislation:** SB 1359 (Hueso, Ch. 306, Stats. of 2022)  
SB 1389 (Bradford, 2022), died on Senate Inactive File

**Support:** Unknown

**Opposition:** California Association of Highway Patrolmen

**Assembly Floor Vote:** 74 - 0

## PURPOSE

***The purpose of this bill is to prohibit, commencing January 1, 2024 until January 1, 2030, a violation of specified vehicle registration requirements from being the basis for any enforcement action before the second month after the month of expiration of the vehicle's registration.***

*Existing law* makes it unlawful to willfully fail or refuse to comply with a lawful order, signal or direction of a uniformed peace officer or to refuse to submit to a lawful inspection pursuant to the Vehicle Code. (Vehicle Code §2800(a).)

*Existing law* provides that a peace officer, or regularly employed and salaried employee who is engaged in directing traffic or enforcing parking laws and regulations of a city, county, or jurisdiction of a state agency in which a vehicle is located may remove a vehicle located within the territorial limits in which the officer or employ may act, under specified circumstances. (Vehicle Code § 22651(a) – (w).)

*Existing law* provides that unless otherwise specified, violations of the Vehicle Code, including registration-related violations, constitute an infraction. (Vehicle Code §40000.1)

*Existing law* provides that a person shall not drive, move, or leave standing upon a highway, or in an off street public parking facility, any motor vehicle unless it is registered with the DMV and the appropriate fees have been paid, with specified exceptions. (Vehicle Code §4000 (a) – (h).)

*Existing law* provides that registration tabs, indicating the month and year of expiration, shall be attached to the rear license plate assigned to the vehicle for the last preceding registration year in which the plates were issued. (Vehicle Code §5204(a).)

*Existing law* provides that truck tractors and commercial motor vehicles having a gross weight of 10,001 pounds or more shall display their registration tabs on the front license plate assigned to that vehicle. (Vehicle Code §5204(a).)

*Existing law* specifies that vehicles that fail to display current or expired tabs are in violation of Vehicle Code §5204. (Vehicle Code §5204(a).)

*Existing law* exempts fleet vehicles and specified trailers from the registration tab display requirement in Vehicle Code §5204(a). (Vehicle Code §5204(b).)

*Existing law* specifies that the registration tab display requirement does not apply when proper application for renewal of registration has been made to the DMV and the indicia of current registration has not yet been received by the owner of the vehicle. (Vehicle Code §5204(c).)

*Existing law* provides that Vehicle Code §5204 is enforceable against any motor vehicle that is driven, moved, or left standing upon a highway, or in an offstreet public parking facility. (Vehicle Code §5204(d).)

*Existing law* provides that prior to issuing a citation for a violation of VC § 5204, a law enforcement officer shall verify, using available DMV records, that no current registration exists for that vehicle, and that a citation shall not be issued for failure to comply with § 5204 against any vehicle that has a current registration on file. (Vehicle Code §5204(e).)

*Existing law* provides that whether or not a vehicle is in violation of any regulation governing the standing or parking of a vehicle but is in violation of VC §5204(a), a person authorized to enforce parking laws and regulations shall verify, using available Department of Motor Vehicle records, that no current registration exists for that vehicle. A citation shall not be issued for failure to comply with VC §5204(a) against any vehicle that has a current registration on file with the department. (Vehicle Code §40225(b).)

*Existing law* provides that if the person authorized to enforce parking law and regulations does not have immediate access to DMV records, a citation shall not be issued for failure to comply with §5204, and a person authorized to enforce parking laws and regulations shall issue a written notice of parking violation for a vehicle that does not have a tab or a verified current registration, setting forth the alleged violation. (Vehicle Code §40225(b).)

*This bill* provides that, commencing January 1, 2024 and lasting until January 1, 2030, a violation of the above registration requirements shall not be the basis for any traffic enforcement action for expired vehicle registration before the second month after the month of expiration of the vehicle's registration.

## COMMENTS

### 1. Need for This Bill

According to the Author:

AB 256 will create a 30-day grace period to pay annual vehicle registrations before late fees and penalties start accruing. Currently the average cost of registering a vehicle in California is \$289, which is a 66% increase over the last six years. Vehicle registration fees and taxes increase yearly to reflect current inflation. With inflation at a 40-year high and the cost of living only increasing, it is vital that we provide Californians adequate time to deal with the sticker shock. Transportation is essential for many Californians and living in fear of losing their vehicle because of their inability to pay their vehicle registration is burdensome. AB 256 will allow motorists to pay vehicle registrations without late penalties up to 30 days after the initial due date. Additionally, the bill will delay enforcement for driving with an expired vehicle registration or 30 days after the registration becomes delinquent.

### 2. Pretext Stops

The Fourth Amendment of the United States Constitution provides in part that “the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated.” The United States Supreme Court has held that temporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes a ‘seizure’ of persons within the meaning of this provision.<sup>1</sup> In *Whren v. United States*, decided in 1996, the Court further held that “the temporary detention of a motorist upon probable cause to believe that he has violated the traffic laws does not violate the Fourth Amendment’s prohibition against unreasonable seizures, even if a reasonable officer would not have stopped the motorist absent some additional law enforcement objective.”<sup>2</sup> The Court’s decision in *Whren* has given rise to what have been dubbed “pretext stops,” a practice in which a law enforcement officer uses a minor traffic violation, such as expired registration, as a pretext to stop a vehicle in order to investigate other possible crimes. Given the litany of possible traffic violations, especially in California, the use of pretext stops as an investigative tool has become widespread since the decision in *Whren*.

As use of pretext stops has increased, so too has criticism of the practice. Many argue that pretext stops are a driver of racial bias in law enforcement, while others claim that they subvert the spirit, if not the letter, of the Fourth Amendment by giving officers carte blanche to stop a vehicle. Critics also point to the difficulty in contesting a pretext stop in court. That is, if an officer stops a driver based on an observed traffic violation – of which there are dozens – the driver bears the burden of producing evidence to refute the officer’s testimony, that, for instance, the license plate was obscured or a taillight was not properly illuminated on a specific date and

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<sup>1</sup> See *Delaware v. Prouse*, [440 U.S. 648](#), 653 (1979); *United States v. Martinez Fuerte*, [428 U.S. 543](#), 556 (1976); *United States v. Brignoni Ponce*, [422 U.S. 873](#), 878 (1975)

<sup>2</sup> *Whren v. United States*, 517 U.S. 806, 809-819 (1996).

time. All of these issues, critics argue, lead to disparate outcomes, primarily based on race, and undermine police legitimacy in the eyes of the communities they serve.<sup>3</sup>

In 2015, the Legislature passed AB 953 (Weber, Ch. 466, Stats. of 2015), also known as the Racial and Identity Profiling Act (RIPA) of 2015, which expressly prohibited racial and identity profiling by law enforcement and requires law enforcement agencies to report vehicle stop data to the DOJ. In January, 2023, the RIPA Board released its sixth annual stop data report of data collected in the 2021 calendar year, which showed that the most commonly reported reason for a stop (86.8%) across all racial/ethnic groups was a traffic violation, and that individuals perceived as Black or Hispanic comprised nearly 58% of the stops reported (against a total population share of 42%), while just under 31% of the stops involved individuals perceived as white (against a total population share of 35%).<sup>4</sup>

In addition to publishing compiled stop data, the RIPA board suggests best practices and provides recommendations to law enforcement agencies and policymakers. In its most recent report, RIPA recommended that the Legislature and local law enforcement examine approaches to “identifying and taking action to limit enforcement of traffic laws and minor offenses that pose a low public safety risk and show significant disparities in the rate of enforcement.”<sup>5</sup>

### 3. Impact of Traffic-Related Fines and Fees on Low-Income Communities

As issue of growing concern over the past several years has been the disproportionate impact of traffic enforcement and traffic-related fines and fees on low-income communities due to factors like limited access to other forms of transit, living in areas with greater law enforcement presence, or being unable to afford necessary maintenance. A recent court decision from the Fifth Circuit of the California Court of Appeals summarizes the issue incisively:

As legislative and other policy makers are becoming increasingly aware, the growing use of ... fees and similar forms of criminal justice debt creates a significant barrier for individuals seeking to rebuild their lives after a criminal conviction. Criminal justice debt and associated collection practices can damage credit, interfere with a defendant's commitments, such as child support obligations, restrict employment opportunities and otherwise impede reentry and rehabilitation. “What at first glance appears to be easy money for the state can carry significant hidden costs—both human and financial—for individuals, for the government, and for the community at large. ... Debt-related mandatory court appearances and probation and parole conditions leave debtors vulnerable for violations that result in a new form of debtor's prison. ... Aggressive collection tactics can disrupt employment, make it difficult to meet other obligations such as child support, and lead to financial insecurity—all of which can lead to recidivism.” These additional, potentially devastating consequences suffered only by indigent persons in effect transform a funding mechanism for the courts into additional punishment for a criminal conviction for those unable to pay.<sup>6</sup>

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<sup>3</sup> See, for instance, Pierson, Emma et. al. “A large-scale analysis of racial disparities in police stops across the United States.” *The Stanford Open Policing Project*. July 2020.

<https://5harad.com/papers/100M-stops.pdf>

<sup>4</sup> “Racial and Identity Profiling Advisory Board Annual Report 2023.” [2023 RIPA Board Annual Report - Racial and Identity Profiling Advisory Board - California Department of Justice](#)

<sup>5</sup> [2023 RIPA Best Practices \(ca.gov\)](#) at p.2

<sup>6</sup> *People v. Duenas* (2019) 30 Cal.App.5th 1157, 1168.

Criminal fines and penalties have climbed steadily in recent decades, and government entities tasked with collecting these fines have realized diminishing returns from collection efforts. Government resources can be wasted in futile collection attempts, especially when they attempt to collect from individuals who simply cannot pay. That is, indigent traffic violators generally cannot produce a substantial flow of money to pay for ever-increasing fines. In March of 2017, when the Legislative Analyst’s Office (LAO) analyzed the Governor’s criminal fines and fees proposal for the 2017-2018 budget, it noted, “Based on available data in Judicial Council reports, the total amount of criminal fines and fees collected has declined annually since 2013-14. ... [T]otal collections decreased by nearly \$200 million—from \$1.8 billion in 2013-14 to \$1.6 billion in 2015-16. The \$1.6 billion consists of about \$905 million (56 percent) in debt that was not delinquent and \$720 million (44 percent) in delinquent debt.”<sup>7</sup>

This bill seeks to ease the financial burden on individuals with expired vehicle registration by granting a 30-day grace period from the month of the expiration wherein no punitive or enforcement action can be taken for the expired registration.

#### 4. Existing Registration-Related Requirements and Effect of This Bill

In addition to requiring all vehicles to be registered with the DMV, existing law requires most vehicles to clearly display proof of current registration by affixing a registration sticker, or “tab,” to the rear license plate.<sup>8</sup> In addition to other various markings, these tabs include the last preceding year that the vehicle was lawfully registered. For instance, for registration fees paid in early 2022 for that registration year, a motorist will receive a tab with the year “2022” clearly displayed on it. Failure to display registration tabs on a vehicle is punishable as an infraction, but is also considered a “correctable” violation, or “fix-it ticket.”<sup>9</sup> This means that if a cited motorist shows proof of correction and pays a minor dismissal fee, the court will dismiss the charge. In addition to authorizing the issuance of a citation, existing law also authorizes peace officers and other traffic enforcement employees to remove (or have towed) a vehicle located within that official’s jurisdiction under certain circumstances, including when a vehicle is found or operated on a highway, public land or an offstreet parking facility with a registration expiration date in excess of 6 months before the date it is found or operated.<sup>10</sup>

Existing law authorizes peace officers to enforce traffic and vehicle-related violations, and requires motorists to submit to lawful orders and inspections in furtherance of this enforcement.<sup>11</sup> Under existing case law, a peace officer may initiate a vehicle stop if the officer reasonably believes that a traffic-related violation has occurred.<sup>12</sup> Prior to January 1, 2023, an officer could issue a citation against any vehicle that failed to display current registration tabs pursuant to existing requirement (essentially an observed violation). However, in 2022, the Legislature passed SB 1359 (Hueso, Ch. 306, Stats. of 2022), which required law enforcement to verify, using current DMV records, that an individual’s registration is in fact expired and unpaid prior to issuing a citation for failure to display registration tabs. This essentially codified what was already common practice, as officers will regularly check a motorist’s license plate against DMV

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<sup>7</sup> See *2017-2018 Budget: Governor’s Criminal Fines and Fees Proposal*, pp. 7-8, <http://www.lao.ca.gov/reports/2017/3600/Criminal-Fine-Fee-030317.pdf>

<sup>8</sup> Vehicle Code §§ 4000, 5204.

<sup>9</sup> Vehicle Code §40000.1, §§40610-40618; <https://www.courts.ca.gov/9529.htm>

<sup>10</sup> Vehicle Code §22651(o)(1)(A)

<sup>11</sup> Vehicle Code §2800 et. seq., and §40000.1 et. seq.

<sup>12</sup> *Terry v. Ohio* 392 U.S. 1 (1968); *Brendlin v. California* 551 U.S. 249 (2007)

records using the computer in their police vehicle to confirm the validity of any perceived violations prior to issuing a citation.

This bill, commencing January 1, 2024, prohibits law enforcement from taking any enforcement action, including towing a vehicle, for expired vehicle registration before the second month after the month of expiration of the vehicle's registration. This prohibition sunsets on January 1, 2030. Thus, under this bill, if a vehicle's registration expires in July, any traffic enforcement against that vehicle would be prohibited until September. Although this provides vehicle owners with a reasonable grace period in which to renew their registration, it could lead to instances where unattended vehicles with expired registration remain on public roadways or in parking facilities for longer than desired when they would otherwise be removed due to a legitimate public safety purpose.

## **5. Related Legislation**

AB 925 (Ta) requires a peace officer or traffic enforcement employee to verify with the DMV that no current vehicle registration exists before towing a vehicle for having expired registration longer than six months and prohibits the vehicle from being towed if the officer or employee does not have immediate access to those records. AB 925 is set for hearing in this committee on the same day as this bill.

SB 50 (Bradford) prohibits peace officers from initiating a traffic stop for specified low-level infractions, including expired registration, unless a separate, independent basis for a stop exists, and authorizes local authorities to enforce traffic violations through the use of non-sworn government employees. SB 50 is currently awaiting referral in the Assembly.

## **6. Argument in Opposition**

In opposition to the bill, the California Association of Highway Patrolmen writes:

AB 256 [...] would grant relief to those who are late registering their cars. Under current law, a vehicle that fails to display current month and year tabs or display expired tabs is in violation of law. AB 256 would, commencing July 1, 2024, until January 1, 2030, prohibit a violation of these provisions from being the basis for any enforcement action before the 2nd month after the month of expiration of the vehicle's registration.

The Motor Vehicle Account (MVA) is basically the sole source of funding for the CHP. They get zero revenue from any tickets they write, so the MVA is critically short of funding most of the time. We see this bill as a very serious drain of millions of dollars on that account, so for these reasons, the CAHP must respectfully oppose AB 256.

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