

TO: The Members of the Assembly Transportation Committee

FROM: Jay Beeber, Executive Director, Safer Streets L.A.

DATE: April 19, 2021

SUBJECT: AB-550 Oppose Unless Amended

AB-550, while likely well intended, would result in a massive increase in ticketing through the use of automated enforcement cameras to cite *vehicle owners*, not drivers, for exceeding the speed limit.

Automated Speed Enforcement Should only be Used in Locations with a Clearly Defined Speeding Problem

The arguments in favor of speed cameras conflate the overall issue of traffic safety with a need for speed enforcement. However, speed cameras only enforce one rule – don't exceed the speed limit. Therefore, the only possible effect they can have on roadway safety is to reduce the number of drivers who exceed the posted speed limit and cause accidents as a result.

But AB-550 provides blanket authorization to use speed cameras on roadways within a half mile of a school, senior zone, public park, or recreational center without any requirement that those roadways be shown to have a safety problem due to speeding. Prior to using automated ticketing on any roadway, a local jurisdiction should be required to show that there is an elevated number of fatalities or severe injuries occurring at that location due to drivers exceeding the speed limit. Yet AB-550 provides no such requirement.

AB-550 also allows speed cameras to be used on streets meeting the standards of a high injury network, as defined by the Department of Transportation. This requirement comes closer to allowing for the use of cameras at appropriate locations. However, the definitions of high injury networks currently in use by various jurisdictions have been extremely flawed in that they tend not to focus on the roadways with the highest number of injuries and fatalities.

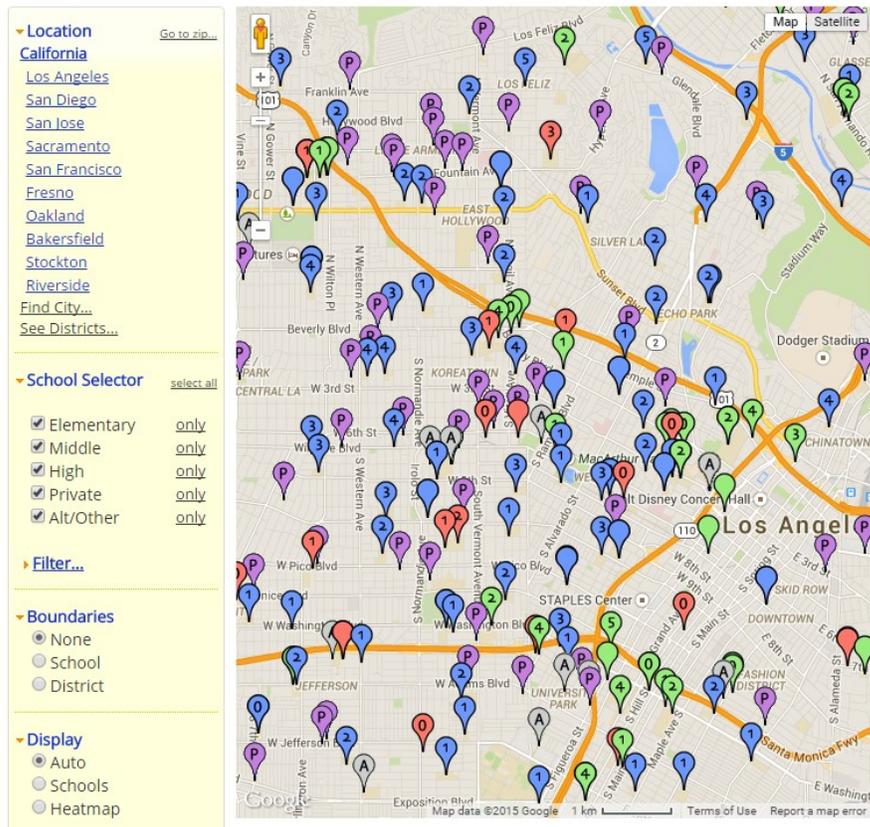
Instead, most definitions employ a convoluted formula that more heavily weighs injuries and fatalities to certain classes of roadway users over injuries and fatalities to other, less favored, roadway users. The formulas also generally weigh injuries and fatalities occurring in particular neighborhoods more heavily than those occurring in other neighborhoods. While we have not yet seen Caltrans' definition of a high injury network, we are concerned that it will continue to use an unscientific method to determine which roadways have a safety problem. Further, as explained previously, the authorization to use speed cameras on high injury networks, even if properly designated, is flawed since those roadways may not have a speeding problem, but rather some other safety issue causing a high number of injuries.

AB-550's authorization for speed camera usage will likely result in the use of cameras on roadways where they would otherwise not be justified. We believe that to maximize any potential safety benefit from the use of automated speed cameras, they must be specifically targeted for use in locations that have an objectively definable safety problem caused by drivers exceeding the speed limit. One example would be roadways where street racing is an ongoing problem. Any other use would constitute a waste of resources and generate substantial resistance from the public.

AB-550 Authorizes Speed Camera Usage on Virtually any Roadway in Urban Areas

AB-550 permits the use of speed cameras on roadways within a half mile of a school, senior zone, public park, or recreational center. The map below shows school locations in a typical area of Los Angeles. As is clearly evident, virtually every section of roadway in the city is within a half mile of a school and would be eligible for speed camera placement. And this is without adding in the authorization for speed camera use within a half mile of senior zones, public parks, and recreational centers. As written, AB-550 allows local jurisdictions to use speed cameras on any street they choose, even those without a speeding issue.

808 schools found. Click on the markers below to view information about a school, or scroll down to see a school list.



AB-550's Authorization to Use Speed Cameras Near Schools Will Create a Trap for Drivers

AB-550 allows for the use of speed cameras within a half mile of a school on streets regularly posted above 30 mph, *two hours before the regular school session begins and two hours after the regular school session concludes.*

At some point during this two hour period, the speed limit would presumably change from the regular speed limit to the reduced school speed limit, since the reduced school speed limit only applies “when children are going to and from school” and the warning sign states that the lower speed limit is in effect, “When Children are Present”. Yet there is no requirement in AB-550 that jurisdictions alert drivers as to when the lower speed limit is in effect in real time.

And it is unclear how the change in speed limits will be handled by the camera systems. Will the local jurisdiction attempt to enforce the lower speed limit during the entire two hour period, in conflict with the vehicle code? Will they just pick a time when the lower speed limit will begin and end, and program this into the system? Will they have someone on site to change the enforcement speed “when children are present”? This lack of clarity will cause extreme confusion on local streets and will constitute a “gotcha” situation for all drivers passing within a half mile of a school at certain times of the day.

Further, if the goal of including school zones in the legislation is to protect children traveling to and from school, the two hour time period is excessive. There is no evidence that school aged children travel to school two hours before the morning bell, and the vast majority of school children have left the campus well before two hours after the final bell has rung. The two hour time period is just an excuse for more ticketing.

This scheme is unworkable and must be amended prior to the bill moving forward.

The “When Children are Present” School Zone Dilemma in California

Even if the authorization to use ticketing cameras around schools was narrowly tailored to just include enforcement of the lowered school zone speed limit at the times when the law currently places them in effect, it would still represent a trap as motorists are not given fair warning when the reduced school speed limit applies.

In California, drivers are not given sufficient information to know when the reduced speed limit in school zones is in effect. Unlike other speed limits which are applicable at all times, the reduced speed limit in school zones only applies at certain times of the day and on certain days of the year. Motorists can be prone to violating the speed limit simply because they are often unaware when the lower speed limit is in effect.

Per CVC 22352, reduced speed limits in school zones are applicable while children are going to or leaving the school either during school hours or during the noon recess period and, where the school grounds are not separated by a fence, while the grounds are in use by children.

Unlike most other states, the only signage that is permitted to be used in California to notify drivers of the reduced speed limit in



school zones is a School Speed Limit sign bearing the phrase “WHEN CHILDREN ARE PRESENT”.

In the real world, where school zones can be upwards of ¼ mile, it is virtually impossible for a driver entering a school zone to know that the reduced speed limit is in effect unless they can physically see children present at their immediate location and know that they are traveling to or from school.

Elsewhere in the US, a School Speed Limit sign coupled with yellow flashing lights (aka a “flashing beacon”) and bearing the phrase “WHEN FLASHING”, is used to notify drivers that they are entering a school zone and are required to reduce their speed.



This sign provides a specific indication to motorists as to when the lower speed limit is in effect. Research has shown that the flashing beacon is highly effective in reducing speeds in school zones and increasing compliance. However, this sign is currently not permitted for use in California.

The school zone flashing beacon array should be permitted to be used in California. Without this change, it would be inequitable to implement automated ticketing to enforce a speed limit standard that most traffic engineers and law enforcement professionals agree is vague in when it applies.

Additionally, the use of flashing beacons coupled with speed feedback signs can be even more effective and should be required for school zones if automated ticketing is to be employed.



AB-550 Eliminates California’s Speed Trap Law Where Speed Cameras are in Use

Under CVCs 40801 - 40805, California’s speed trap law, a speed trap is defined as a section of roadway where the speed of a vehicle is determined using an electronic device such as radar or lidar and the speed limit was not justified by an engineering and traffic survey conducted within five years prior to the date of the alleged violation (the 5 years can be extended to 7 or 10 years under certain circumstances). The law was created in response to local jurisdictions creating speed traps all over the state.

If jurisdictions wish to use an electronic device to measure vehicle speeds and issue speeding tickets, the prosecution must show that the speed limit was justified by a valid engineering and traffic survey and the speed limit set according to the provisions in the vehicle code and the MUTCD. In any prosecution for a speed infraction such as CVC

22350, the basic speed law, which is the speed violation most cited on surface streets, “the prosecution shall establish, as part of its prima facie case, that the evidence or testimony presented is not based upon a speedtrap...” Without this proof, speed cases where the measurement of speed was determined using the electronic device would be dismissed. Note that this does not apply to situations where the vehicle’s speed was based on pacing or other means, or in locations such as on freeways and school zones where the speed trap law does not apply.

This is the main reason that jurisdictions take the time and expense to conduct speed surveys. Without this law, jurisdictions could set an improper speed limit and it would be the obligation of the defendant to show that the speed survey had expired, or the speed limit was not set properly according to the survey.

With the implementation of AB-550, where speed is enforced using ticketing cameras, the speed trap law no longer applies. Per CVC 40803(a), the speed of a vehicle cannot be admitted into evidence if the speed was obtained or determined by use of a speed trap. This means it cannot be used as either circumstantial evidence or direct evidence.

However, the speed trap law applies in infraction cases. AB-550 sets up a whole new form of civil adjudication for tickets issued using speed cameras under an administrative hearing. The law specifically states that, “The issuing agency shall not be required to produce any evidence other than, ... the notice of violation ... including the photograph, video, or other visual image of the vehicle’s license plate, and information ... identifying the registered owner of the vehicle” and that this documentation “shall be prima facie evidence of the violation”.

This means that California’s speed trap law no longer applies where speed ticketing cameras are in use and that local jurisdictions will be free to set up speed traps using this technology throughout the state.

AB-550 Eliminates the Basic Speed Law Where Speed Cameras are in Use

CVC 22350, the basic speed law, prohibits motorists from driving at an unsafe speed, not from exceeding a specific speed limit. While the posted speed limit informs police officers as to what speeds may be unsafe, it is up to the officer to make the judgment as to whether a particular motorist is traveling at an unsafe speed under the conditions present. The officer, in their professional judgement, may determine that a speed much higher than, or lower than, the posted speed limit is unsafe and ticket drivers accordingly. This judgment is abrogated by speed cameras.

AB-550 and similar speed camera laws turn the basic speed law’s “unsafe for conditions” into an absolute “must not exceed” law. This is a fundamental change to how we enforce speed limits in California.

Further, drivers cited under CVC 22350 presumably have the opportunity to argue in their defense that their speed was not unsafe under the conditions present at the time of the incident. This defense would also be eliminated because the driver will not receive the ticket until weeks afterwards and will not remember the conditions present at the time they were cited. And, since the camera systems are only required to capture the vehicle license plate and are prohibited from capturing the window portion of the vehicle, the

photographic or video evidence will also not provide sufficient information about the conditions present to allow a defendant a fair defense.

AB-550 Leaves Open the Possibility for Higher Fines than Stated in the Bill

Although AB-550 only allows \$50 for a violation from 11 up to 15 miles per hour and \$100 for a violation from 15 up to 25 miles per hour (with higher fines for higher speed violations), nothing in the law prevents local jurisdictions from adding in additional fees and penalties for late payment or adjudication costs. In fact, the bill specifically prohibits a fee for the initial review but does not prohibit a fee for a hearing. As we have seen in other similar situations, courts will interpret this lack of restriction as allowing for these fees. The courts will likely rule that if the legislature wanted to restrict additional fees they could have done so as they did with a restriction on the fee for the initial review. This is a backhanded way of allowing jurisdictions to add fees without specifically authorizing them.

For example, the City of Los Angeles doubles the parking ticket fine if the initial fine isn't paid by the due date. They then add additional fees for missing subsequent payment deadlines. As a result, a \$63.00 initial fine can escalate to \$175. If the city imposed that same penalty scheme for the above proposed initial fines, a violation from 11 up to 15 miles per hour could quickly become \$146.00 and a violation from 15 up to 25 miles per hour could balloon to \$246.00. And those that have multiple unpaid tickets can have their vehicles booted or towed, and their vehicle registration held up.

And there is nothing in the law preventing the city from adding higher fees for these offenses than they impose for parking tickets. In fact, there is an incentive for the city to do so since AB-550 allows local jurisdictions to pay a "per ticket fee" to a vendor for "processing" of the automated enforcement ticket. With regards to parking tickets, the City of Los Angeles contracts with Conduent (formerly Zerox) for their parking ticket processing and pays Conduent a portion of the add-on fee for sending late notices. The additional fees that can accrue to the vendor not only encourages the vendor to make payment and adjudication difficult, but it encourages them to always find the ticketed party responsible during the "initial review" which the vendor conducts.

And while AB-550 does not provide for driver's license suspension since the ticket goes to the vehicle owner, as explained previously, those who are unable to pay will likely be unable to renew their vehicle registration or will have their vehicles booted or towed.

For those unable to pay, this can quickly and easily result in a debt spiral. Those facing this dire situation, and their family members, may be forced to drive an unregistered vehicle (a misdemeanor), subjecting them to additional law enforcement activity, license suspensions, and hundreds or thousands of dollars in fines, as well as higher insurance premiums. At this point, the debt spiral becomes a financial death spiral.

While AB-550 appears on its face to avoid the financial devastation resulting from other traffic ticketing policies, in practice, it will just increase that devastation exponentially.

Revenue Usage

While AB-550 seems to attempt to limit the use of revenue generated by automated speed enforcement programs, we do not believe that the restrictions are sufficient to deter jurisdictions from using the ticketing cameras to generate a profit.

The bill *requires* that jurisdiction use the revenue for projects they currently desire to implement but have complained they don't have funding for. Therefore, the bill provides a direct incentive to jurisdiction to impose ticketing cameras on the maximum number of streets and issue as many tickets as possible so they can fund their pet projects. And in doing so, they get the added benefit of freeing up revenue from other funding sources such as the general fund. Further, several of the supposed traffic calming measures that the funds are allowed to be used for are not actually traffic calming measures. This includes the installation of bicycle lanes, which may be desirable, but do not actually reduce vehicle speeds.

In order to provide a real disincentive to running these programs for profit, all excess funding, beyond the cost of operating the system and adjudication, must be transferred from the control of the jurisdiction running the program. We suggest transferring these funds into a State fund for an unrelated purpose, such as mental health treatment or homelessness abatement.

Cumulative Effect of AB-550 and Other Pending Legislation

Current legislation pending in the Assembly would allow local jurisdictions to lower speed limits arbitrarily. On many roadways this would manifest as a reduction in the speed limit up to 10 mph below the operating speed of the roadway. In other locations, the speed limit could be lowered to 25, 20, or even 15 mph on the flimsiest of criteria.

If AB-550 were to be enacted along with AB-43, speed cameras could be allowed to enforce impossibly low speed limits, issuing tickets to the tens of thousands of motorists traveling on those roadways every single day simply for driving at or near the speed the roadway was designed for.

This would represent a massive ticketing blitz the likes of which residents of California have never seen.

Judicial Concerns

AB-550 fundamentally changes the way speed limits are enforced and adjudicated in California:

- Removes law enforcement professionals from speed limit enforcement and allows non-professionals to issue traffic tickets. Virtually all police experience and discretion is removed from the equation.
- Drivers are not held responsible for their actions, as the vehicle owner receives and is responsible for the violation.
- By removing issuance of a license point, dangerous, repeat traffic violators are not tracked and can remain on the road with little consequence other than paying a fine.
- Does not allow the vehicle owner any defense that they were not the driver. Appears to only allow a rental agency to transfer liability to a renter.

- Eliminates most due process rights currently available to defendants when adjudicating infractions in Superior Court, including:
 1. Case is a civil matter heard by a hearing officer, not by a judge who understands the proper application of the law.
 2. AB-550 changes the Standard of Proof from “Beyond a Reasonable Doubt” to “Preponderance of the Evidence”.
 3. Makes the ticket itself prima facie evidence. No other evidence need be presented. This essentially shifts the Burden of Proof and the Burden of Producing Evidence from the state to the defendant.
 4. There is no specific right of the accused to face their accuser or cross examine witnesses.
 5. There is no specific right of the accused to subpoena witnesses.
 6. There is no specific right of the accused to obtain Discovery of the evidence against them or evidence that might help in their defense.
 7. There is no restriction against the accused being charged an administrative fee to have their case heard.

Additional Concerns

- There is no requirement that a jurisdiction show a demonstrated safety need prior to employing speed cameras.
- There is no requirement that jurisdictions identify and remedy any engineering deficiencies or employ alternatives to gaining greater compliance prior to utilizing speed cameras.
- Allows ticket to be issued up to 30 days after violation, which makes it difficult or impossible for a driver to remember the circumstances of violation and offer a defense.
- Requires the vehicle owner to pay or contest the violation within 30 days of “issuance” regardless of when, or if, mail is received. There is no allowance for a vehicle owner to contest if the deadline is missed for any reason, including being out of town when the notice was received.
- Permits a secondary vendor to be paid for each ticket issued.

Recommendations for Amendments

While Safer Streets LA opposes the use of automated systems to ticket drivers in the manner imagined by AB-550, any new forms of automated enforcement approved in the State of California should begin only as a limited Pilot Program to gather data about its usefulness as well as expose inequities to the state’s residents caused by the use of such systems.

If a Pilot Program is approved, the following provisions should be included:

- Any Pilot Program shall be limited to a handful of locations in within the Author’s home district.
- Jurisdictions that wish to use cameras shall show a demonstrated safety need which goes beyond just the number of violations which are occurring.
- Prior to installing an automated enforcement system, an engineering study shall be conducted to determine whether any reasonable engineering countermeasures or enhanced public education can be employed to address the identified safety

- problem. If any such countermeasures are identified, jurisdictions shall employ those countermeasures and then re-evaluate the safety issues previously identified to determine if they still exist. This step shall be repeated until all reasonable engineering countermeasures or reasonable education efforts have been exhausted.
- The first violation issued to any vehicle owner shall be a warning notice (not just during the initial enforcement period). This would allow the pilot program to evaluate the effectiveness of the presence of the system, the effectiveness of issuing warning notices to gain compliance, and how often a violator re-offends.
 - There shall be a specific prohibition on jurisdictions adding any additional fees or penalties beyond those stated in the bill, including late fees, processing fees, or adjudication fees.
 - If used near schools, use of automated speed enforcement systems shall only be authorized to enforce violations of the school zone speed limit. Use of the system shall not be authorized at times or distances beyond those authorized under the current version of the California vehicle code. The use of the cameras shall be limited to times only when children are traveling to and from school.
 - If used in a school zone, there shall be a requirement that the system only be used where the “School Speed Limit X mph when Flashing” flashing beacon array is in use, functioning, and in place far enough upstream of the location of enforcement to ensure drivers have enough time and distance to adjust their speed. For example, a driver on 40 mph roadway who needs to decelerate to a school zone speed limit of 25 mph needs about 170 feet to do so safely and comfortably without excessive braking which has the potential to increase rear end collisions.
 - The system shall not be used to ticket vehicles within 500 feet of a change in the speed limit from one section of roadway to another.
 - A “Your Speed Is” speed feedback sign shall also be in use far enough upstream of the location of enforcement to ensure drivers have enough time and distance to adjust their speed.
 - The system shall be calibrated at least monthly, not annually. For comparison, hand-held radar guns used by police officers are calibrated at the beginning and end of each shift.
 - In any adjudication proceeding, the ticketing jurisdiction shall provide objective proof that the above requirements were met and functioning at the time of the citation.
 - The speed trap law shall apply to tickets issued using automated enforcement on roadways where it is otherwise applicable.
 - Jurisdictions running the program shall not retain any net revenue from the system after the cost to administer the program has been paid. Net revenue shall be deposited in a fund inaccessible to local jurisdictions running the program (or counties in which they reside) and used for a legitimate state program such as mental health treatment or homelessness abatement.
 - A contract between a governmental agency and a manufacturer or supplier of an automated enforcement system shall include only provisions necessary to compensate for the reasonable costs as a result of the use of the equipment, and shall not consider the number of citations generated. If a vendor employs the use of a “cost neutral” contract, the contract shall not include provisions for the extension of the contract or repayment of any balance due at the renewal or cancellation of the contract. This prevents jurisdictions from being forced or encouraged to artificially increase the number of citations issued to pay off any balance due. This prohibition shall also apply to vendors who “process” the tickets.
 - Notwithstanding the designation of violations as a civil penalty and use of an administrative hearing process for adjudication, defendants should retain all due

process rights currently available when adjudicating infractions in Superior Court. (see list at end)

- If a citation is issued to a vehicle owner who was not the driver, the vehicle owner shall be permitted to declare under penalty of perjury that they were not the driver at the time of the incident. They shall also be permitted, but not required, to transfer responsibility to another individual who was operating the vehicle at the time of the violation. In such instance, responsibility shall be transferred to the individual so identified, or if no individual is identified, the citation shall be dismissed. Any notice sent regarding the violations shall clearly state that transferring responsibility is not a requirement for the declaration that the owner was not the driver.
- If responsibility is transferred to another individual, that individual shall have the same rights as the vehicle owner to declare that they were not the driver.
- A defendant shall not be required to pay any fees to have their case adjudicated.
- The time to respond to or pay the citation, or reinstate the adjudication process if the time to respond has elapsed, shall be extended or reinstated subsequent to a showing of good cause by the person receiving the citation. Such extension or reinstatement shall not be unreasonably withheld.
- To ensure full transparency in evaluating the Pilot Program, hearings conducted to adjudicate citations shall allow a reasonable number of members of the public to view the proceedings, unless the defendant objects to their presence.
- At a minimum, the jurisdiction running the program shall gather and report the following information at least quarterly. The report shall be posted on the agency's public website within 1 month of the end of each quarter. For each calendar month of operation:
 1. The number of alleged violations captured by the system which exceeded the speed limit at each 1 mph speed increment.
 2. The number of warning notices issued.
 3. The number of re-offenders captured by the system, including re-offending warning notice recipients.
 4. The number of citations adjudicated and the disposition of the adjudication, including the number of citations dismissed due to defendants declaring they were not the driver.
 5. Costs to administer the program and revenue generated.
 6. The effectiveness of the program measured by a change in the number and extent of violations captured by the system and number and severity of collisions before and after the program was employed.
- The Pilot Program shall not be renewed, nor the use of speed cameras expanded, until at least 4 years of data has been collected and evaluated by an independent entity not associated with jurisdictions running the program, vendors, or advocates for the use of the systems. Transportation Committee staff shall administer any study or evaluation of the pilot program.

Rights to be Retained under Civil Adjudication of Citations Issued by Automated Enforcement Systems

1. Case shall be heard by a judge, judge pro tem, or commissioner who understands the application of law (retired permitted).
2. Standard of Proof shall be Beyond a Reasonable Doubt.
3. Burden of Proof shall be on the prosecution.
4. Burden of Producing evidence shall be on the prosecution.

5. Formal rules of evidence shall apply.
6. The accused shall be entitled to Discovery (allowed to see evidence to be used against them).
7. The person accusing the defendant of the violation must appear to testify.
8. The Prosecution must present evidence of the violation and adherence to all requirements for operating the enforcement system, not merely the citation issued.
9. The accused may subpoena witnesses.
10. The accused may cross examine witnesses.
11. The accused may appeal their case to be heard in Superior Court with the case heard by judge, judge pro tem, or commissioner.

Corporate Welfare for Automated Ticketing Companies

We would be remiss if we did not mention the lobbying activity of the Wall Street backed for-profit corporate entities that would gain a financial windfall if AB-550 becomes law in California. The largest supplier of these systems, Verra Mobility (formerly American Traffic Solutions) has hired at least two separate lobbying firms to push this legislation and other automated ticketing bills this session. Considering the similarities between these bills and legislation passed in other states, it is reasonable to surmise that this company has had a major influence on the initial drafting of AB-550. Therefore, it is not unreasonable to be highly skeptical of any legislation that is being so heavily promoted by these for-profit entities.

In conclusion, we wish to reiterate that while we agree that improving safety on our roadways is a laudable goal, we do not believe that implementing an entirely new system of automated enforcement, with all its associated problems and abuses, is the proper way to achieve it.

Sincerely,



Jay Beeber
Executive Director
Safer Streets L.A.