

CONCURRENCE IN SENATE AMENDMENTS

AB 2147 (Ting and Friedman)

As Amended August 16, 2022

Majority vote

SUMMARY

Provides that a peace officer shall not stop a pedestrian for a violation involving an illegal crossing of the street unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power.

Senate Amendments

- 1) Authorize the California Highway Patrol to consult with any University of California, Institute of Transportation Studies (UC ITS) when drafting a report to the Legislature, instead of limiting that consultation to UC ITS, Davis.
- 2) Add chaptering out amendments with AB 1909 (Friedman).

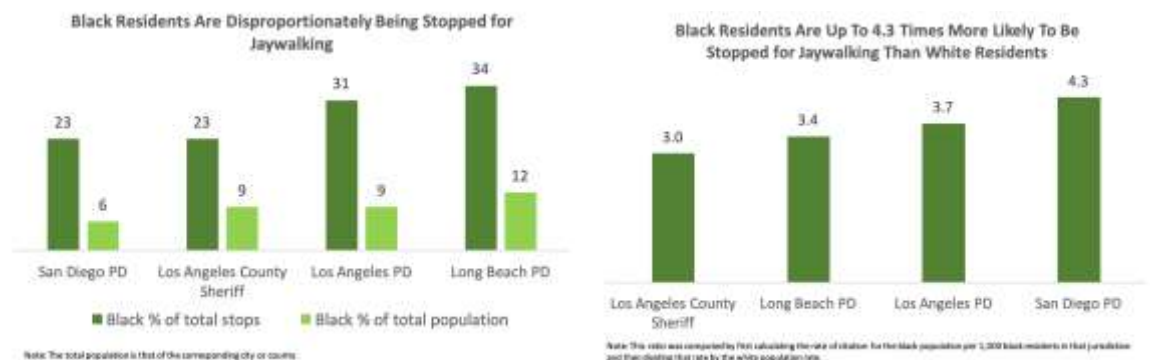
COMMENTS

With these amendments, the bill is substantially similar to the bill that was heard in the Assembly.

On September 23, 2020, Kurt Andras Reinhold, an African American father of two, crossed the street for the last time in his life. He was fatally shot by San Clemente Police as they subdued him. He was stopped for jaywalking.

In 2016, the City of Sacramento issued 233 tickets for jaywalking and of these roughly half or 111 were issued to African Americans when they only make up 15% of the city's population.

Similar statistics can be seen across the state. AB 593 (Weber) Chapter 466, Statutes of 2015, enacted the Racial and Identity and Profiling Act (RIPA) of 2015, which requires local agencies to annually report data to the Attorney General on all stops conducted by peace officers. Data from that report shows that African Americans are disproportionately stopped by law enforcement, especially for jaywalking, as seen below:



Before and during the automobile's rise, streets were public spaces shared by pedestrians, cars and horses. Rising pedestrian deaths in the 1910s and 1920s sparked a backlash against the automobile. Petitions across the country called for all cars to have a speed governor of 25 miles per hour (mph). The rules of the road at the time were limited, and oftentimes judges determined that all traffic collisions should result in a manslaughter charge.

Jaywalking, a term used for crossing the street unlawfully, first became of a crime when Kansas City passed the first ordinance requiring pedestrians to cross streets at crosswalks. In the 1920s, Secretary of Commerce and future President Herbert Hoover convened a series of meetings to create a model traffic law that could be used by cities across the country. The Model Municipal Traffic Ordinance became the model for vehicle codes across the country, and was based on traffic laws set in Los Angeles at the time, which had enacted strict pedestrian laws on streets. These meetings were heavily influenced by auto industry groups seeking to take the streets away from pedestrians and give them to cars.

A heavy campaign began to shame individuals who crossed the street outside of a sidewalk. Entering a street in unspecified locations became a crime. Even the term "jaywalking" was meant as an insult. The term "jaywalking" stems from the etymology of the word "jay," which at the time was a pejorative that meant "rube" or "hick." Today the term jaywalking common place and is used by the Judicial Council in the Uniform Bail and Penalty Schedule to describe the violations this bill seeks to eliminate.

Relegating pedestrians to the sidewalks and crosswalks have not eliminated pedestrian fatalities. According to the Governors Highway Safety Association the number of pedestrian fatalities in the United States has grown sharply. Between 2009 and 2018, pedestrian fatalities increased 53%. This is during a time when all other traffic-related deaths increased by 2%. In 2018, 17% of all traffic fatalities were pedestrians, compared to 12% in 2009.

In 2021, Governor Newsom vetoed AB 1238, which was similar to this bill. In his veto message, the Governor wrote,

"This bill would authorize jaywalking and prohibit any related fines or criminal penalties for pedestrians entering a roadway when no cars are present, until January 1, 2029.

I want to thank the author for bringing this important issue forward. Unequal enforcement of jaywalking laws and the use of minor offenses like it as a pretext to stop people of color, especially in under-resourced communities, is unacceptable and must be addressed. While I am committed to tackling this issue as part of our continued work to reduce excessive use of force and bias, I cannot support this bill in its current form.

California has the highest total number of pedestrian fatalities in the nation and ranks 8th for pedestrian fatality rate per 100,000 in population. According to data collected in the Statewide Integrated Traffic Records System, there has been an average of 3,500 traffic fatalities per year over the past five years and approximately 30% of those were pedestrian fatalities. During that time period, 63% of the crashes resulting in pedestrian fatalities were the result of pedestrians taking actions against traffic controls or safety laws. I am concerned that AB 1238 will unintentionally reduce pedestrian safety and potentially increase fatalities or serious injuries caused by pedestrians that enter our roadways at inappropriate locations.

I am committed to working with the author, the Legislature, and stakeholders on legislation that addresses the unequal enforcement of jaywalking laws in a manner that does not risk worsening California's pedestrian safety.

In the meantime, I strongly encourage local governments to conduct a review of the demographics and enforcement levels of jaywalking in their communities and to identify and address concerns at the local level as appropriate."

AB 1238 removed most provisions on when a pedestrian was prohibited from crossing the street and instead made it illegal for a pedestrian to cross the street in a manner that would constitute an immediate hazard.

This bill takes a slightly different approach, albeit is similar in effect. Instead of eliminating the various provisions prohibiting a pedestrian from entering a roadway, this bill provides that law enforcement shall not issue a ticket unless a reasonable careful person would realize there is an immediate danger of a collision with a moving vehicle or other device moving exclusively by human power. In addition, this bill removes the sunset clause and requirement for the California Highway Patrol to release a report evaluating the safety effects of the law.

AB 2147 would promote safe walking and limits unjust enforcement by prohibiting law enforcement from citing individuals for jaywalking unless there is an immediate danger of a collision with a moving vehicle. As social workers, our Code of Ethics dictates that we honor the "dignity and worth of every person" which is why we support this bill."

According to the Author

According to the author, "Every day, millions of Californians cross the street outside of an intersection when no cars are present. California's jaywalking laws criminalize one of our most vulnerable transportation modes and are unevenly enforced. A 2017 study in Sacramento showed Black Californians were cited for jaywalking five times more than the general population. Beyond inequitable enforcement, the prevalence of jaywalking in certain neighborhoods reflects inequities in street design. People who need to walk in their neighborhoods should not be penalized for decades of infrastructure neglect and auto-first street design that fails to consider the needs of users who aren't in cars. AB 2147 promotes safe walking and limits unjust enforcement by prohibiting law enforcement from stopping individuals for jaywalking unless there is an immediate danger of a collision with a moving vehicle."

Arguments in Support

The National Association of Social Workers, California Chapter, writing in support of this bill, argues "Pedestrians can face fines up to \$250 for crossing the street outside of a designated crosswalk. That's a higher fine than most parking tickets and common traffic citations. California's vehicle codes are written to prioritize cars and fine pedestrians simply for crossing the road, regardless if cars are present. These citations are often used as a tool for police to harass communities of color. Across California, police departments stop Black pedestrians at a higher rate than white pedestrians. From 2018-2020, data from the California Racial and Identity Profiling Act shows that Black Californians are severely overrepresented in jaywalking enforcement.

Arguments in Opposition

According to the California State Sheriffs' Association, "Last year, we opposed AB 1238 because it would have removed predictability and clarity when it comes to traffic safety rules that have

been established for pedestrian and motorist safety. We are concerned AB 2147 would have a similar practical effect by significantly limiting when a peace officer may stop a pedestrian for a violation of one of the affected safety laws.

According to the Governor's veto of AB 1238, 'California has the highest total number of pedestrian fatalities in the nation.' Limiting enforcement of California's laws that are designed to avoid traffic collisions and improve the safety of all who use our roadways will only exacerbate the existing problem. Further, only permitting enforcement when a "reasonably careful person" would realize there is an immediate danger ignores the reality that oftentimes pedestrians and motorists fail to recognize the presence of immediate danger and are only protected by adherence to clear laws under a presumption that violations will be sanctioned."

FISCAL COMMENTS

According to the Senate Appropriations Committee:

- 1) Unknown, likely significant loss of revenue as a result of fewer citations being issued (General Fund, various special funds, local funds). See Staff Comments for additional detail.
- 2) Likely minor and absorbable costs for CHP to collect data and prepare a report for the Legislature by January 1, 2028 (Special Fund - Motor Vehicle Account).
- 3) Minor and absorbable costs to the University of California, Institute of Transportation Studies to consult with CHP.

VOTES:

ASM TRANSPORTATION: 10-3-2

YES: Friedman, Berman, Daly, Kalra, Lee, Bloom, Nazarian, O'Donnell, Ward, Wicks

NO: Fong, Davies, Nguyen

ABS, ABST OR NV: Cunningham, Gipson

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: 50-18-10

YES: Aguiar-Curry, Bauer-Kahan, Bennett, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Cooley, Cunningham, Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Nazarian, Quirk, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO: Bigelow, Chen, Choi, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Salas, Seyarto, Smith, Voepel, Waldron

ABS, ABST OR NV: Arambula, Berman, Cooper, Irwin, Muratsuchi, O'Donnell, Petrie-Norris, Ramos, Rodriguez, Valladares

SENATE FLOOR: 29-7-4

YES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Newman, Pan, Portantino, Roth, Skinner, Stern, Umberg, Wieckowski, Wiener

NO: Bates, Borgeas, Grove, Jones, Melendez, Nielsen, Wilk

ABS, ABST OR NV: Dahle, Min, Ochoa Bogh, Rubio

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