

AMENDED IN ASSEMBLY MARCH 23, 2017

CALIFORNIA LEGISLATURE—2017—18 REGULAR SESSION

ASSEMBLY BILL

No. 468

Introduced by Assembly Member Santiago

February 13, 2017

An act to amend Sections 99171 and 99172 of the Public Utilities Code, relating to ~~crimes~~: transit districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 468, as amended, Santiago. ~~Assault: transit operator: transit vehicle in motion.~~ Transit districts: prohibition orders.

Existing law prohibits certain acts by a person with respect to the property, facilities, or vehicles of a transit district. A violation is generally an infraction punishable by a fine not exceeding \$75 on a first offense, or on a subsequent offense by a fine not exceeding \$250 or by community service.

Existing law authorizes the Sacramento Regional Transit District, the Fresno Area Express, and, until January 1, 2018, the San Francisco Bay Area Rapid Transit District to issue a prohibition order to any person cited for committing one or more of certain prohibited acts in specified transit facilities. Existing law prohibits a person subject to the prohibition order from entering the property, facilities, or vehicles of the transit district for specified periods of time. Existing law establishes notice requirements in that regard and provides for initial and administrative review of the order.

This bill would apply these provisions to the Los Angeles County Metropolitan Transportation Authority.

~~Existing law establishes the crime of assault committed against any person on the property of, or on a motor vehicle of, a public transportation provider, as defined.~~

~~This bill would express the intent of the Legislature to enact legislation establishing the crime of assault against a transit operator while a transit vehicle is in motion.~~

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 99171 of the Public Utilities Code is
2 amended to read:

3 99171. (a) (1) A transit district may issue a prohibition order
4 to any person to whom either of the following applies:

5 (A) On at least three separate occasions within a period of 90
6 consecutive days, the person is cited for an infraction committed
7 in or on a vehicle, bus stop, or train or light rail station of the transit
8 district for any act that is a violation of paragraph (2) or (5) of
9 subdivision (a) of Section 99170 of this code or paragraph (1), (2),
10 (3), or (4) of subdivision (d) of Section 640 or Section 640.5 of
11 the Penal Code.

12 (B) The person is arrested or convicted for a misdemeanor or
13 felony committed in or on a vehicle, bus stop, or light rail station
14 of the transit district for acts involving violence, threats of violence,
15 lewd or lascivious behavior, or possession for sale or sale of a
16 controlled substance.

17 (C) The person is convicted of a violation of Section 11532 of
18 the Health and Safety Code or Section 653.22 of the Penal Code.

19 (2) A person subject to a prohibition order may not enter the
20 property, facilities, or vehicles of the transit district for a period
21 of time deemed appropriate by the transit district, provided that
22 the duration of a prohibition order shall not exceed the following,
23 as applicable:

24 (A) Thirty days if issued pursuant to subparagraph (A) of
25 paragraph (1), provided that a second prohibition order within one
26 year may not exceed 90 days, and a third or subsequent prohibition
27 order within one year may not exceed 180 days.

28 (B) Thirty days if issued pursuant to an arrest pursuant to
29 subparagraph (B) of paragraph (1). Upon conviction of a

1 misdemeanor offense, the duration of the prohibition order for the
2 conviction, when added to the duration of the prohibition order
3 for the initial arrest, if any, may not exceed 180 days. Upon
4 conviction of a felony offense, the duration of the prohibition order
5 for the conviction, when added to the duration of the prohibition
6 order for the initial arrest, if any, may not exceed one year.

7 (3) No prohibition order issued under this subdivision shall be
8 effective unless the transit district first affords the person an
9 opportunity to contest the transit district’s proposed action in
10 accordance with procedures adopted by the transit district for this
11 purpose. A transit district’s procedures shall provide, at a minimum,
12 for the notice and other protections set forth in subdivisions (b)
13 and (c), and the transit district shall provide reasonable notification
14 to the public of the availability of those procedures.

15 (b) (1) A notice of a prohibition order issued under subdivision
16 (a) shall set forth a description of the conduct underlying the
17 violation or violations giving rise to the prohibition order, including
18 reference to the applicable statutory provision, ordinance, or transit
19 district rule violated, the date of the violation, the approximate
20 time of the violation, the location where the violation occurred,
21 the period of the proposed prohibition, and the scope of the
22 prohibition. The notice shall include a clear and conspicuous
23 statement indicating the procedure for contesting the prohibition
24 order. The notice of prohibition order shall be personally served
25 upon the violator. The notice of prohibition order, or a copy, shall
26 be considered a record kept in the ordinary course of business of
27 the transit district and shall be prima facie evidence of the facts
28 contained in the notice establishing a rebuttable presumption
29 affecting the burden of producing evidence. For purposes of this
30 paragraph, “clear and conspicuous” means in larger type than the
31 surrounding text, or in contrasting type, font, or color to the
32 surrounding text of the same size, or set off from the surrounding
33 text of the same size by symbols or other marks that call attention
34 to the language.

35 (2) For purposes of this section, “personal service” means any
36 of the following:

37 (A) In-person delivery.

38 (B) Delivery by any form of mail providing for delivery
39 confirmation, postage prepaid, to at least one address provided by

1 the person being served, including, but not limited to, the address
2 set forth in any citation or in court records.

3 (C) Any alternate method approved in writing by the transit
4 district and the person being served.

5 (3) If a person served with a notice of prohibition order is not
6 able, or refuses, to provide a mailing address, the notice of
7 prohibition order shall set forth the procedure for obtaining any
8 letters, notices, or orders related to the prohibition order from the
9 administrative offices of the transit district. For purposes of this
10 section, delivery shall be deemed to have been made on the
11 following date, as applicable:

12 (A) On the date of delivery, if delivered in person.

13 (B) On the date of confirmed delivery, for any delivery by mail.

14 (C) For any alternate method of service, as provided in the
15 writing specifying the alternate method.

16 (4) Proof of service of the notice shall be filed with the transit
17 district.

18 (5) If a person contests a notice of prohibition order, the transit
19 district shall proceed in accordance with subdivision (c). If the
20 notice of prohibition order is not contested within 10 calendar days
21 after delivery by personal service, the prohibition order shall be
22 deemed final and shall go into effect, without further action by the
23 transit district, for the period of time set forth in the order.

24 (6) All prohibition orders shall be subject to an automatic stay
25 and shall not take effect until the latest of the following:

26 (A) Eleven calendar days after delivery of the prohibition order
27 by personal service.

28 (B) If an initial review is timely requested under paragraph (1)
29 of subdivision (c), 11 calendar days after delivery by personal
30 service of the results of the review.

31 (C) If an administrative hearing is timely requested under
32 paragraph (3) of subdivision (c), the date the hearing officer's
33 decision is delivered by personal service.

34 (c) (1) For a period of 10 calendar days from the delivery of
35 the prohibition order by personal service, the person may request
36 an initial review of the prohibition order by the transit district. The
37 request may be made by telephone, in writing, or in person. There
38 shall be no charge for this review. In conducting its review and
39 reaching a determination, the transit district shall determine
40 whether the prohibition order meets the requirements of subdivision

1 (a) and, unless the person has been convicted of the offense or
2 offenses, whether the offense or offenses for which the person was
3 cited or arrested are proven by a preponderance of the evidence.
4 If, following the initial review, based on these findings, the transit
5 district determines that the prohibition order is not adequately
6 supported or that extenuating circumstances make dismissal of the
7 prohibition order appropriate in the interest of justice, the transit
8 district shall cancel the notice. If, following the initial review,
9 based on these findings, the transit district determines that the
10 prohibition order should be upheld in whole or in part, the transit
11 district shall issue a written statement to that effect, including any
12 modification to the period or scope of the prohibition order. The
13 transit district shall serve the results of the initial review to the
14 person contesting the notice by personal service.

15 (2) The transit district may modify or cancel a prohibition order
16 in the interest of justice. The transit district shall cancel a
17 prohibition order if it determines that the person did not understand
18 the nature and extent of his or her actions or did not have the ability
19 to control his or her actions. If the person is dependent upon the
20 transit system for trips of necessity, including, but not limited to,
21 travel to or from medical or legal appointments, school or training
22 classes, places of employment, or obtaining food, clothing, and
23 necessary household items, the transit district shall modify a
24 prohibition order to allow for those trips. A person requesting a
25 cancellation or modification in the interest of justice shall have
26 the burden of establishing the qualifying circumstances by a
27 preponderance of the evidence.

28 (3) If the person is dissatisfied with the results of the initial
29 review, the person may request an administrative hearing of the
30 prohibition order no later than 10 calendar days after the results
31 of the initial review are delivered by personal service. The request
32 may be made by telephone, in writing, or in person. An
33 administrative hearing shall be held within 30 calendar days after
34 the receipt of a request for an administrative hearing. The person
35 requesting the hearing may request one continuance, not to exceed
36 seven calendar days.

37 (4) The administrative hearing process shall include all of the
38 following:

1 (A) The person requesting the hearing shall have the choice of
2 a hearing by mail or in person. An in-person hearing shall be
3 conducted within the jurisdiction of the transit district.

4 (B) The administrative hearing shall be conducted in accordance
5 with written procedures established by the transit district and
6 approved by the governing body or chief executive officer of the
7 transit district. The hearing shall provide an independent, objective,
8 fair, and impartial review of the prohibition order.

9 (C) The administrative review shall be conducted before a
10 hearing officer designated to conduct the review by the transit
11 district's governing body or chief executive officer. In addition to
12 any other requirements, a hearing officer shall demonstrate the
13 qualifications, training, and objectivity prescribed by the transit
14 agency's governing body or chief executive officer as are necessary
15 to fulfill and that are consistent with the duties and responsibilities
16 set forth in this subdivision. The hearing officer's continued
17 service, performance evaluation, compensation, and benefits, as
18 applicable, shall not be directly or indirectly linked to the number
19 of prohibition orders upheld by the hearing officer.

20 (D) The person who issued the notice of prohibition order shall
21 not be required to participate in an administrative hearing, unless
22 participation is requested by the person requesting the hearing.
23 The request for participation must be made at least five calendar
24 days prior to the date of the hearing and may be made by telephone,
25 in writing, or in person. The notice of prohibition order, in proper
26 form, shall be prima facie evidence of the violation or violations
27 pursuant to subdivision (a) establishing a rebuttable presumption
28 affecting the burden of producing evidence.

29 (E) In issuing a decision, the hearing officer shall determine
30 whether the prohibition order meets the requirements of subdivision
31 (a) and, unless the person has been convicted of the offense or
32 offenses, whether the offense or offenses for which the person was
33 cited or arrested are proven by a preponderance of the evidence.
34 Based upon these findings, the hearing officer may uphold the
35 prohibition order in whole, determine that the prohibition order is
36 not adequately supported, or cancel or modify the prohibition order
37 in the interest of justice. The hearing officer shall cancel a
38 prohibition order if he or she determines that the person did not
39 understand the nature and extent of his or her actions or did not
40 have the ability to control his or her actions. If the person is

1 dependent upon the transit system for trips of necessity, including,
2 but not limited to, travel to or from medical or legal appointments,
3 school or training classes, places of employment, or obtaining
4 food, clothing, and necessary household items, the transit district
5 shall modify a prohibition order to allow for those trips. A person
6 requesting a cancellation or modification in the interest of justice
7 shall have the burden of establishing the qualifying circumstances
8 by a preponderance of the evidence.

9 (F) The hearing officer’s decision following the administrative
10 hearing shall be delivered by personal service.

11 (G) A person aggrieved by the final decision of the hearing
12 officer may seek judicial review of the decision within 90 days of
13 the date of delivery of the decision by personal service, as provided
14 by Section 1094.6 of the Code of Civil Procedure.

15 (d) A person issued a prohibition order under subdivision (a)
16 may, within 10 calendar days of the date the order goes into effect
17 under paragraph (6) of subdivision (b), request a refund for any
18 prepaid fare media rendered unusable in whole or in part by the
19 prohibition order, including, but not limited to, monthly passes. If
20 the fare media remain usable for one or more days outside the
21 period of the prohibition order, the refund shall be prorated based
22 on the number of days the fare media will be unusable. The
23 issuance of a refund may be made contingent on surrender of the
24 fare media.

25 (e) For purposes of this section, “transit district” means the
26 Sacramento Regional Transit ~~District~~ *District, the Los Angeles*
27 *County Metropolitan Transportation Authority*, or the Fresno Area
28 Express. Until January 1, 2018, for purposes of this section, “transit
29 district” also means the San Francisco Bay Area Rapid Transit
30 District.

31 *SEC. 2. Section 99172 of the Public Utilities Code is amended*
32 *to read:*

33 99172. (a) Prior to exercising the authority given in subdivision
34 (a) of Section 99171 to issue prohibition orders, a transit district
35 shall do all of the following:

36 (1) Establish an advisory committee for the purpose of
37 evaluating the procedures for and issuance of prohibition orders
38 and recommending a course of training for personnel charged with
39 issuance and enforcement of prohibition orders.

1 (2) Ensure that personnel to be charged with issuance and
2 enforcement of prohibition orders have received training as
3 recommended by the advisory committee.

4 (3) Provide reasonable notification to transit district riders that
5 persons who engage in disorderly conduct may be subject to a
6 prohibition order barring the person from the transit district's
7 property, facilities, or vehicles for a period of up to one year.
8 "Reasonable notification" may include, but is not limited to,
9 information on the transit district's Internet Web site, in written
10 materials, at transit stations, and on citations issued by the transit
11 district of the types of conduct that may result in issuance of a
12 prohibition order.

13 (b) The advisory committee shall be composed of at least five
14 members appointed by the legislative body of the transit district.
15 At least one of the members of the advisory committee shall have
16 experience working with individuals with psychiatric,
17 developmental, or other disabilities, at least one member shall be
18 a youth advocate, and at least one member shall have law
19 enforcement experience.

20 (c) The advisory committee shall be tasked, at a minimum, with
21 all of the following:

22 (1) Providing recommendations, in consultation with the county
23 mental health director within the service area of the transit district,
24 regarding the type and extent of training that should be undertaken
25 by individuals with responsibility for issuance and enforcement
26 of prohibition orders, with particular emphasis on training designed
27 to assist those individuals in identifying and interacting with
28 persons who are homeless or who have psychiatric, developmental,
29 or other disabilities.

30 (2) Identifying, in consultation with the county mental health
31 director within the service area of the transit district, services and
32 programs to which persons who are homeless or who have
33 psychiatric, developmental, or other disabilities may be referred
34 by transit district enforcement personnel prior to or in conjunction
35 with issuance of a prohibition order.

36 (3) Monitoring the issuance of prohibition orders to assist the
37 transit district in ensuring compliance with Section 51 of the Civil
38 Code.

39 (4) Providing the governing board of the transit district and the
40 Legislature with an annual report summarizing the number of

1 prohibition orders that were issued by the transit district during
2 the preceding year, including, but not limited to, the types and
3 numbers of citations by category, and the number of exclusion
4 orders appealed, the appeals granted, the reasons granted, and other
5 relevant information directly related to those orders.

6 (d) The transit district may use an existing advisory committee
7 to fulfill the requirements of this section, provided that the
8 composition and purpose of the existing advisory committee meet
9 or are modified to meet the requirements of this section.

10 (e) For purposes of this section, “transit district” means the
11 Sacramento Regional Transit District, the Los Angeles
12 County Metropolitan Transportation Authority, or the Fresno Area
13 Express. Until January 1, 2018, for purposes of this section, “transit
14 district” also means the San Francisco Bay Area Rapid Transit
15 District.

16 ~~SECTION 1. It is the intent of the Legislature to enact~~
17 ~~legislation establishing the crime of assault against a transit~~
18 ~~operator while a transit vehicle is in motion.~~