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LEGISLATIVE
COUNSEL
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August 22, 2019

Honorable David Chiu
Room 4112, State Capitol

VEHICLES: ILLUMINATED SIGNS - #1920421

Dear Mr. Chiu:

You have asked whether Vehicle Code section 25353.2 prohibits the use on a privately owned vehicle of a digital advertising sign that complies with the requirements in Vehicle Code division 12 (§ 24000 et seq.).¹

1. Background

Division 12 (§ 24000 et seq.; hereafter division 12) governs the equipment of vehicles and applies to all publically and privately owned vehicles used on state highways, except as otherwise specified. Section 24003 generally prohibits a vehicle from being equipped with any lamp or illuminating device not required or permitted in the Vehicle Code. Furthermore, it is unlawful to operate a vehicle that is not equipped as provided in the Vehicle Code, or to sell or install equipment that is intended for use on a vehicle and is not in conformity with the Vehicle Code or regulations promulgated thereunder.²

Under division 12, lighting equipment for vehicles must comply with specified requirements before being offered for sale.³ Flashing lights are generally prohibited on vehicles, except as specifically authorized.⁴ There are also restrictions on devices that emit perceptible light above a certain level,⁵ the use of television receivers,⁶ the use of light bars,⁷

¹ All further division, chapter, article, and section references are to the Vehicle Code.

² §§ 24002, subd. (b) & 24005.

³ §§ 24012 & 26100.

⁴ § 25250.

⁵ § 25950.

⁶ § 27602.

⁷ § 27606.

and the display of the words “fire” or “fire department” on a vehicle.⁸ However, division 12, chapter 2, article 10 (§ 25400 et seq.) expressly authorizes the use on vehicles of diffused lighting equipment that meets certain requirements, providing as follows:

“25400. (a) Any vehicle may be equipped with a lamp or device on the exterior of the vehicle that emits a diffused nonglaring light of not more than 0.05 candela per square inch of area.

“(b) Any diffused nonglaring light shall not display red to the front, but may display other colors. A diffused nonglaring light shall not resemble nor be installed within 12 inches or in such position as to interfere with the visibility or effectiveness of any required lamp, reflector, or other device upon the vehicle.

“(c) A diffused nonglaring lamp or device, other than a display sign authorized by subdivision (d), shall be limited in size to an area of 720 square inches and where any lease, rental, or donation is involved the installation of the lamp or device shall be limited to those vehicles operated either primarily within business or residential districts or municipalities, or between business districts, residential districts, and municipalities in close proximity.

“(d) An internally illuminated sign emitting not more than 0.25 candela per square inch and possessing copy which does not contain a white background may be displayed on each side, but not on the front or rear, of a trolley coach or of a bus being operated in urban or suburban service as described in Section 35107 of this code.

“25401. No diffused nonglaring light on a vehicle shall resemble any official traffic control device.”

In sum, the Vehicle Code generally prohibits the use or installation of a lamp or illuminating device on a vehicle that is not provided for in that code, but expressly authorizes vehicles to be equipped with certain devices that emit diffused, nonglaring light.

2. Analysis

You have asked whether section 25353.2 prohibits the operation of a private vehicle equipped with a digital advertising sign that complies with division 12, which includes all of the provisions discussed above.

A statutory construction analysis begins by examining the statute’s words because they generally provide the most reliable indicator of legislative intent.⁹ If the statutory language is clear and unambiguous, a court’s inquiry into the interpretation of the statute ends; in that case, the plain meaning of the statute is controlling, and it is unnecessary to

⁸ § 27905.

⁹ *Lopez v. Sony Electronics, Inc.* (2018) 5 Cal.5th 627, 634.

resort to extrinsic sources in order to determine the Legislature's intent.¹⁰ Accordingly, we begin by analyzing the language of section 25353.2 in order to determine whether that section prohibits the use of lighting equipment on privately owned vehicles. Section 25353.2 provides in full:

"25353.2. (a) Notwithstanding Sections 25400 and 25950, except as provided in subdivision (c), a bus operated by the Antelope Valley Transit Authority's publicly owned transit system, on regularly scheduled service, in addition to the illuminated signs described in Section 25353, may also be equipped with illuminated signs that display advertising and that emit any light color, if all of the following conditions are met:

"(1) Each illuminated sign displaying advertising shall emit diffused nonglaring light.

"(2) Each illuminated sign displaying advertising shall be limited in size to a display area of not greater than 4,464 square inches.

"(3) Each illuminated sign displaying advertising shall not resemble nor be installed in a position that interferes with the visibility or effectiveness of a required lamp, reflector, or other device upon the vehicle.

"(4) Each illuminated sign displaying advertising shall only be placed on one or both sides of the vehicle, and shall not be placed in a forward-facing or rear-facing position, and no more than one sign shall be placed on either side of any single vehicle.

"(5) The mixing of individually colored light-emitting diode elements, including red, is allowed in each illuminated sign displaying advertising as long as the emitted color formed by the combination of light-emitting diode elements is not red.

"(b)(1) An illuminated sign displaying advertising may be operated as a dynamic message sign in a paging or streaming mode. However, the electronic message sign display shall remain static while a bus is operating on a freeway as defined in Section 257 of the Streets and Highways Code.

"(2) The following definitions shall govern the construction of paragraph (1):

"(A) 'Paging,' meaning character elements or other information presented for a period of time and then disappearing all at once before the same or new elements are presented, is permitted if the display time of each message is between 2.7 and 10 seconds. Blanking times between each message shall be between 0.5 and 25 seconds.

¹⁰ *Lopez v. Sony Electronics, Inc.*, *supra*, 5 Cal.5th at p. 634.

“(B) ‘Streaming,’ meaning character elements or other information moving smoothly and continuously across the display, is permitted if the character movement time, from one end of the display to the other, is at least 2.7 seconds, and the movement time of the entire message does not exceed 10 seconds.

“(c)(1) On or before March 1, 2015, the Antelope Valley Transit Authority, if it elects to implement a pilot program pursuant to this section, shall determine whether the University of California, Irvine, has at least 12 transit buses equipped with illuminated signs that are operational pursuant to Section 25354. The Antelope Valley Transit Authority may implement the pilot program authorized by this section only if it determines that the University of California, Irvine, has less than 12 transit buses equipped with illuminated signs that are operational pursuant to Section 25354.

“(d) If the Antelope Valley Transit Authority implements the pilot program pursuant to this section, it shall, by January 1, 2020, submit to the Legislature pursuant to Section 9795 of the Government Code, and to the department, a report on the incidence of adverse impacts on roadway and pedestrian safety due to the utilization of illuminated signs on transit buses displaying advertising pursuant to this section, if any. The report shall be the product of a collaborative effort by Antelope Valley law enforcement and transit officials, and other local law enforcement officials in whose jurisdictions Antelope Valley transit vehicles operate.

“(e) The Antelope Valley Transit Authority’s publicly owned transit system may, pursuant to subdivision (a), operate up to 25 buses with illuminated signs displaying advertising for two years, after which time the authority may increase the number of buses with the signs to up to 30.

“(f) This section shall remain in effect only until July 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2020, deletes or extends that date.”

Thus, by its plain language, section 25353.2 authorizes the Antelope Valley Transit Authority to equip its buses with illuminated signs that display advertising and that emit any light color under certain circumstances. Nothing in the language of section 25353.2 prohibits the use of a device on a privately owned passenger vehicle.

A court will not speculate that the Legislature meant something other than what it said in a statute; nor will it rewrite a statute to posit an unexpressed intent.¹¹ With respect to the question at hand, the unambiguous language of section 25353.2 makes it unnecessary to

¹¹ *Mikkelsen v. Hansen* (2019) 31 Cal.App.5th 170, 181.

resort to extrinsic sources in order to determine the Legislature's intent.¹² Section 25353.2 does not prohibit the use of any device on a privately owned passenger vehicle; rather it applies exclusively to buses operated by the Antelope Valley Transit Authority.

We note that under certain circumstances courts can act to harmonize statutes by finding implied repeal.¹³ However, repeals of statutes by implication are disfavored¹⁴ and all presumptions are against a repeal of a statute by implication, including partial repeals that occur when one statute implicitly limits another statute's scope of operation.¹⁵ Absent an express declaration of legislative intent, a court will find an implied repeal only when there is no rational basis for harmonizing the two potentially conflicting statutes, and the statutes are irreconcilable, clearly repugnant, and so inconsistent that the two cannot have concurrent operation.¹⁶ Courts have also noted that implied repeal should not be found unless the later provision gives *undebatable evidence* of the Legislature's intent to supersede the earlier provision.¹⁷ Moreover, courts will not find a conflict between provisions of law if they may reasonably be harmonized.¹⁸ As described above, the plain language of section 25353.2 does not apply its provisions to privately owned passenger vehicles but limits them to buses operated by the Antelope Valley Transit Authority's publicly owned transit system. Therefore, there is no basis on which to find a conflict with respect to section 25400. Those statutes may be harmonized by finding that, consistent with its plain language,

¹² Although it is unnecessary to our conclusion, the legislative history indicates that the addition of section 25353.2 was not intended to affect lighting devices on privately owned passenger vehicles. In this regard, the Senate Rules Committee Unfinished Business Analysis of the June 15, 2014, version of Senate Bill No. 1134 (2013-2014 Reg. Sess.) states on pages 1 and 3:

"SUBJECT: Illuminated signs on public transit buses [¶] ... [¶] This bill allows the [Antelope Valley Transit Authority (AVTA)], if it determines on March 1, 2015, that UC Irvine has less than 12 transit buses with illuminated display, to institute a pilot program which allows the AVTA buses to be equipped with illuminated signs to display advertising identical to the one authorized for Santa Monica." (Bold and underscore in original.)

¹³ *In re J.S.* (2015) 237 Cal.App.4th 452, 459.

¹⁴ *Lopez v. Sony Electronics, Inc.*, *supra*, 5 Cal.5th at p. 637.

¹⁵ *Even Zohar Construction & Remodeling, Inc. v. Bellaire Townhouses, LLC* (2015) 61 Cal.4th 830, 838.

¹⁶ *Tuolumne Jobs & Small Business Alliance v. Superior Court* (2014) 59 Cal.4th 1029, 1039.

¹⁷ *Tuolumne Jobs & Small Business Alliance v. Superior Court*, *supra*, 59 Cal.4th at p. 1039.

¹⁸ *Hassell v. Bird* (2018) 5 Cal.5th 522, 540 (A court does not examine language of a statute in isolation but in the context of the statutory framework as a whole in order to determine its scope and purpose and to harmonize the various parts of the enactment).

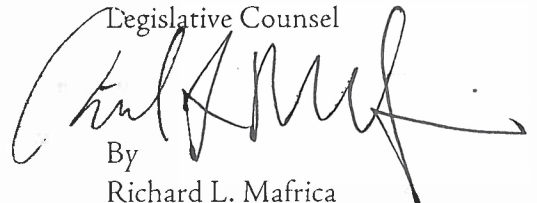
section 25353.2 applies exclusively to a bus operated by the Antelope Valley Transit Authority's publicly owned transit system. Consequently, it is our view that a court would be unlikely to find that section 25353.2 impliedly repealed the authorization in section 25400.

3. Conclusion

For the foregoing reasons, it is our opinion that section 25353.2 does not prohibit the use on a privately owned passenger vehicle of a digital advertising sign that complies with the requirements in division 12.

Very truly yours,

Diane F. Boyer-Vine
Legislative Counsel



By
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