

**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: March 16, 2016

TO: Honorable Members of the Rules, Elections, Intergovernmental Relations and Neighborhoods Committee

FROM: Sharon M. Tso *Sharon M. Tso* for Council File No: 15-0002-S132
Chief Legislative Analyst Assignment No: 16-02-0183

SUBJECT: Resolution (Buscaino - Martinez) to enhance arrest authority for Bureau of Street Services Investigators and add vehicles used in the enforcement of overload vehicle permits to the State's list of authorized emergency vehicles

CLA RECOMMENDATION: Adopt Resolution (Buscaino - Martinez) to include in the City's 2015 - 2016 State Legislative Program SUPPORT for and/or SPONSORSHIP of legislation that would amend the Penal Code to enhance arrest authority for Street Services Investigators, and to add vehicles used by these investigators for the enforcement of overload vehicle permits to the list of authorized emergency vehicles as defined in the Vehicle Code.

SUMMARY

On February 26, 2016, a Resolution (Buscaino - Martinez) was introduced to support and/or sponsor legislation to amend California Penal Code Section 830.7 to enhance arrest authority of Bureau of Street Services Investigators, and to add vehicles used by these investigators in the enforcement of overload vehicle permits to the list of authorized emergency vehicles defined in California Vehicle Code Section 2416. The Resolution states that while Bureau of Street Services (BSS) Investigators have been granted arrest powers related to specific illegal dumping crimes in the Penal Code, they also have various other enforcement responsibilities for which they cannot make arrests.

The Resolution states that BSS Investigators must rely on the Police Department (LAPD) for assistance in non-illegal dumping cases where an arrest is warranted, and that this strains limited resources. The Resolution further states that BSS Investigators are responsible for the enforcement of overload vehicle permits, but that the vehicles used in this task are not listed as emergency vehicles in the California Vehicle Code. The Resolution, therefore, seeks an official position of the City of Los Angeles to support and/or sponsor legislation to amend the California Penal Code to enhance arrest authority of BSS Investigators, as well as add vehicles used by BSS Investigators to the list of authorized emergency vehicles in the California Vehicle Code.

BACKGROUND

Under current law, BSS Investigators have limited arrest powers of a peace officer for specified illegal dumping crimes. However, these Investigators have various other enforcement duties, including enforcement of environmental laws, the regulation of the movement of overload vehicles, the sales of counterfeit goods or unsafe items on City streets, and laws related to the use or misuse of public property. These enforcement duties often lead to the need for an arrest, which

BSS Investigators are unable to conduct. This results in BSS Investigators relying on LAPD personnel for assistance, straining the City's resources.

To address this issue, BSS has requested that California Penal Code Section 830.7, which grants BSS its specific arrest authorities, be amended to grant BSS Investigators limited arrest authority for all laws that BSS Investigators are charged with enforcing. BSS states that this amendment would not expand current duties, require a pay increase, mandate the carrying of firearms, or require a safety retirement for BSS Investigators.

The proposed change to the Penal Code would do the following:

- Enable BSS Investigators to seize evidence in plain view when making arrests;
- Enable BSS Investigators to obtain criminal history information from the California Law Enforcement Telecommunications System (CLETS);
- Provide Investigators with legal protections by enhancing the penalty for special circumstance violent felonies committed against unarmed BSS Investigators during the performance of their duties;
- Enhance BSS Investigator credibility with law enforcement personnel; and
- Enable BSS Investigators to conduct complete investigations without the need of LAPD assistance.

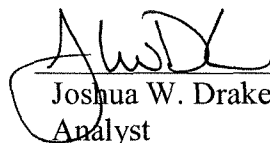
As noted above, BSS Investigators are charged with enforcing overload vehicle permits. However, BSS vehicles used for this duty are not listed as emergency vehicles in the California Vehicle Code. An amendment to Vehicle Code Section 2416 to add vehicles used by BSS investigators in the enforcement of overload permits to the list of authorized emergency vehicles would enable BSS Investigators to more efficiently enforce overload permits.

The amendments to current law related to BSS Investigators would enable BSS to more efficiently carry out its enforcement duties, as well as reduce BSS Investigators' reliance on LAPD to conduct arrests on their behalf.

DEPARTMENTS NOTIFIED

Police Department

Department of Public Works, Bureau of Street Services


Joshua W. Drake
Analyst

SMT:jwd

Attachments: Resolution (Buscaino - Martinez)
Proposed Amendment to California Penal Code Section 830.7
Proposed Amendment to California Vehicle Code Section 2416

RESOLUTION RULES, ELECTIONS & INTERGOVERNMENTAL RELATIONS

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, California Penal Code Section 830.7(j) grants Bureau of Street Services (BSS) Investigators the arrest power of a peace officer for specified illegal dumping crimes; and

WHEREAS, while BSS Investigators have arrest powers related to illegal dumping, they have various other enforcement responsibilities for which they do not have arrest authority; and

WHEREAS, these responsibilities include enforcement of laws related to environmental issues, the movement of overloaded trucks, the sale of counterfeit or unsafe items on City streets, among other responsibilities; and

WHEREAS, the enforcement of these laws often leads to arrests, which requires BSS Investigators to receive assistance from the Police Department (LAPD), straining limited resources; and


WHEREAS, the California Penal Code should be updated to grant BSS Investigators limited arrest powers related to the laws they enforce, and to clearly define their authority to enforce public-right-of-way laws in Los Angeles without granting other peace officer benefits or full peace officer status; and

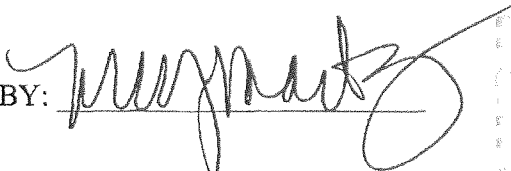
WHEREAS, vehicles used by BSS Investigators in the enforcement of Overload Permits should be listed as emergency vehicles in the California Vehicle Code; and

WHEREAS, legislation effectuating these changes would increase the effectiveness of BSS Investigators and reduce their reliance on LAPD officers for arrests related to the enforcement of laws regulating the public-right-of way;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015 - 2016 State Legislative Program SUPPORT for and/or SPONSORSHIP of legislation that would amend the California Penal Code Section 830.7 to enhance arrest authority for Street Services Investigators and add vehicles used by these investigators to the list of authorized emergency vehicles as defined in California Vehicle Code Section 2416.

PRESENTED BY: Joe Buscaino
JOE BUSCAINO
Councilmember, 15th District

FEB 26 2013
jwd 

SECONDED BY: 

ORIGINAL

**PROPOSED AMENDMENT TO CALIFORNIA PENAL CODE SECTION 830.7
TO ADD SUBSECTION K**

830.7. The following persons may exercise the powers of arrest of a peace officer as specified in Section 836 during the course and within the scope of their employment, if they successfully complete a course in the exercise of those powers pursuant to Section 832:

(a) Persons designated by a cemetery authority pursuant to Section 8325 of the Health and Safety Code.

(b) Persons regularly employed as security officers for independent institutions of higher education, recognized under subdivision (b) of Section 66010 of the Education Code, if the institution has concluded a memorandum of understanding, permitting the exercise of that authority, with the sheriff or the chief of police within whose jurisdiction the institution lies.

(c) Persons regularly employed as security officers for health facilities, as defined in Section 1250 of the Health and Safety Code, that are owned and operated by cities, counties, and cities and counties, if the facility has concluded a memorandum of understanding, permitting the exercise of that authority, with the sheriff or the chief of police within whose jurisdiction the facility lies.

(d) Employees or classes of employees of the California Department of Forestry and Fire Protection designated by the Director of Forestry and Fire Protection, provided that the primary duty of the employee shall be the enforcement of the law as that duty is set forth in Section 4156 of the Public Resources Code.

(e) Persons regularly employed as inspectors, supervisors, or security officers for transit districts, as defined in Section 99213 of the Public Utilities Code, if the district has concluded a memorandum of understanding permitting the exercise of that authority, with, as applicable, the sheriff, the chief of police, or the Department of the California Highway Patrol within whose jurisdiction the district lies. For the purposes of this subdivision, the exercise of peace officer authority may include the authority to remove a vehicle from a railroad right-of-way as set forth in Section 22656 of the Vehicle Code.

(f) Nonpeace officers regularly employed as county parole officers pursuant to Section 3089.

(g) Persons appointed by the Executive Director of the California Science Center pursuant to Section 4108 of the Food and Agricultural Code.

(h) Persons regularly employed as investigators by the Department of Transportation for the City of Los Angeles and designated by local ordinance as public officers, to the extent necessary to enforce laws related to public transportation, and authorized by a memorandum of understanding with the chief of police, permitting the exercise of that authority. For the purposes of this subdivision, "investigator" means an employee defined in Section 53075.61 of the Government Code authorized by local ordinance to enforce laws related to public transportation. Transportation investigators authorized by this section shall not be deemed "peace officers" for purposes of Sections 241 and 243.

(i) Persons regularly employed by any department of the City of Los Angeles who are designated as security officers and authorized by local ordinance to enforce laws related to the preservation of peace in or about the properties owned, controlled, operated, or

administered by any department of the City of Los Angeles and authorized by a memorandum of understanding with the Chief of Police of the City of Los Angeles permitting the exercise of that authority. Security officers authorized pursuant to this subdivision shall not be deemed peace officers for purposes of Sections 241 and 243.

(j) Illegal dumping enforcement officers, to the extent necessary to enforce laws related to illegal waste dumping, or littering, and authorized by a memorandum of understanding with, as applicable, the sheriff or chief of police within whose jurisdiction the person is employed, permitting the exercise of that authority. An "illegal dumping enforcement officer" is defined, for purposes of this section, as a person employed full-time, part-time, or as a volunteer after completing training prescribed by law, by a city, county, or city and county, whose duties include illegal dumping enforcement and is designated by local ordinance as a public officer. An illegal dumping control officer may also be a person who is not regularly employed by a city, county, or city and county, but who has met all training requirements and is directly supervised by a regularly employed dumping control officer. This person shall not have the power of arrest or access to summary criminal history information. No person may be appointed as an illegal dumping enforcement officer if that person is disqualified pursuant to the criteria set forth in Section 1029 of the Government Code. Persons regularly employed by a city, county, or city and county designated pursuant to this subdivision may be furnished state summary criminal history information upon a showing of compelling need pursuant to subdivision (c) of Section 11105.

(k) Persons regularly employed as investigators by the Department of Public Works, Bureau of Street Services for the City of Los Angeles and designated by local ordinance as public officers, to the extent necessary to enforce laws related to the public right-of-way, and authorized by a memorandum of understanding with the chief of police, permitting the exercise of that authority. An investigator may also be a person who is not regularly the Department of Public Works, Bureau of Street Services for the City of Los Angeles, but who has met all training requirements and is directly supervised by a regularly employed investigator. No person may be appointed as an as an investigator if that person is disqualified pursuant to the criteria set forth in Section 1029 through 1030 of the Government Code. Persons designated pursuant to this section shall be included as "peace officers of the state" under paragraph (2) of subdivision (c) of Section 11105 for the purpose of receiving state summary criminal history information and shall be furnished that information on the same basis as peace officers of the state designated in paragraph (2) of subdivision (c) of Section 11105. Persons designated pursuant to this section shall be included as a person "described in 830.7" for the purpose of carrying a wooden baton or stick pursuant to Section 22295.

Proposed Amendment to CA Vehicle Code Section 2416

2416. (a) The Commissioner of the California Highway Patrol may issue authorized emergency vehicle permits only for the following vehicles, and then only upon a finding in each case that the vehicle is used in responding to emergency calls for fire or law enforcement or for the immediate preservation of life or property or for the apprehension of law violators:

(1) Any vehicle maintained in whole or in part by the state, a county or a city and privately owned and operated by a marshal, deputy marshal, or person who is a member of, and who receives salary from, and is regularly employed by, a police department or sheriff's department, provided the state, county or city does not furnish to that person a publicly owned authorized emergency vehicle.

(2) Any vehicle owned and operated by a public utility, used primarily to accomplish emergency repairs to utility facilities or used primarily by railroad police officers, who are commissioned by the Governor, in the performance of their duties.

(3) Firefighting or rescue equipment designed and operated exclusively as such.

(4) Any vehicle operated by the chief, assistant chief, or one other uniformed person designated by the chief of a fire department organized as provided in the Health and Safety Code or the Government Code or pursuant to special act of the Legislature.

(5) Any vehicle of an air pollution control district *or operated by the state, a county or a city used to* enforce provisions of law relating to air pollution from motor vehicles *or the regulation of extra-legal loads.*

(6) Any vehicle operated by the chief of any fire department established on any base of the armed forces of the United States.

(7) Any vehicle owned and operated by any fire company organized pursuant to Part 4 (commencing with Section 14825) of the Health and Safety Code.

(8) Privately owned ambulances licensed pursuant to Chapter 2.5 (commencing with Section 2500).

(9) Vehicles other than privately owned ambulances used by privately owned ambulance operators exclusively to transport medical supplies, lifesaving equipment, or personnel to the scene of an emergency when a request for medical supplies, lifesaving equipment, or personnel has been made by any person or public agency responsible for providing emergency medical transportation. These vehicles shall display a sign or lettering not less than two and one-half inches in height, in a color providing a sharp contrast to its background, on each side showing the name of the ambulance operator.

(10) Any vehicle owned and operated by an office or department of a city, county, or district which is designated by an ordinance adopted by the governing body of that local agency as a hazardous materials response team vehicle for response to hazardous materials emergencies.

(b) The commissioner may adopt and enforce regulations to implement this section.

(c) Violation of any regulation adopted by the commissioner pursuant to this section is a misdemeanor.