

# DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

## INITIAL STATEMENT OF REASONS

TITLE 13, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6.5, ARTICLE 6,  
ADD SECTION 1294

### CHILD SAFETY ALERT SYSTEMS (CHP-R-2017-05)

#### **PROBLEM**

As a result of the tragic loss of life of a pupil left onboard a school bus unattended, Senate Bill 1072 (Mendoza, Chapter 721, Statute of 2016), known as the Paul Lee Schoolbus Safety Law was enacted. The purpose of the law is to ensure no pupil is left unattended onboard a school bus, school pupil activity bus (SPAB), youth bus (YB), or child care vehicle, and to provide specific procedures and driver discipline in the case of gross negligence in doing so. Each of the above outlined vehicles, unless otherwise excepted, must be equipped with a Child Safety Alert Systems (CSAS) on or before the beginning of the 2018–2019 school year.

The required CSAS is a device, located at the rear of the interior of the bus, which requires the driver to manually contact or scan the device prior to exiting the vehicle, in order to prompt the driver to inspect the interior of the vehicle before exiting. Additionally, on or before January 1, 2018, the California Highway Patrol (CHP) must adopt regulations regarding the specifications, installation and use of Child Safety Alert Systems.

#### **PURPOSE AND NECESSITY OF REGULATIONS**

Proposed new Title 1, California Code of Regulations (CCR) Section 1294 is added to provide the necessary specifications, installation and use of the CSAS pursuant to Section 28160 of the California Vehicle Code (CVC). The section provides clarity to when all school buses, SPAB, YB and child care vehicles must be equipped with a CSAS to provide the basis for the determination of compliance with implementation date requirements. This section specifies the circumstances under which the CSAS is required to become activated and prohibit any method of deactivation except as provided. This section specifies the warning requirements applicable to the CSAS, consisting of a tone, flashing light or both. This section further specifies CSAS warning initiation requirements. This section serves to specify interior lighting requirements associated with operation of the CSAS and provides a lighting requirement alternative. This section clarifies CSAS operational requirements under specified conditions and requires documentation and notification of any CSAS failure.

## **SECTION BY SECTION OVERVIEW**

**Section 1294** is added to Division 2, Chapter 6.5, Article 6 of Title 13, California Code of Regulations.

**Subsection (a)** is added to outline the statutory requirement that all school buses, SPAB, YB and child care vehicles must be equipped with a CSAS on or before the beginning of the 2018–2019 school year. The subsection is necessary to clarify the beginning of the school year is determined by the county superintendent of schools, the superintendent of any school district, or the owner or operator of a private school. This is necessary to accommodate the many, varied school year types and starting dates and has been determined by the CHP to be the most accurate means to make this determination. Additionally, because the actual start date of any given scholastic learning year can be at any point during a year-round school cycle, the subdivision provides necessary clarification regarding designation of the beginning of the school year by the aforementioned individuals in order to provide the basis for a determination of compliance with CSAS installation, use, and implementation date requirements.

As outlined within the subsection, a determination of compliance with implementation dates will consider the school to which pupils are transported and will be applicable to individual vehicles based on the designation of the beginning of the 2018–2019 school year at those schools. For example, if a school bus used to transport pupils only to a school or schools at which the 2018–2019 school year begins on August 15, 2018, the bus must be equipped as required by statute and this section on or before that date. However, if the bus transports pupils to other schools, one or more of which has a 2018–2019 school year start date prior to the August 15, 2018, date the bus must be equipped as required on or before the earliest date on which the 2018–2019 school year begins at any of the schools to which pupils are transported.

**Subsection (b)** is necessary to specify the circumstances under which the CSAS is required to become activated. For example, the CSAS must be activated automatically as required. This requirement precludes manual activation and is intended to alleviate the possibility of driver oversight in activating the device. The subsection permits but does not require the CSAS activation to be delayed for up to three minutes after the vehicle is put in motion or reaches 10 miles per hour, whichever occurs first. This is intended to permit movement of the vehicle by maintenance personnel within a maintenance facility compound and without pupils on board, without requiring activation of the CSAS and driver interaction prior to exiting the vehicle. The subsection also prohibits any method of CSAS deactivation, except as provided within the section. This is intended to prohibit inadvertent or intentional deactivation of the device which may result in noncompliance with applicable operational requirements. The CHP has determined these requirements will support the highest level of passenger safety while providing appropriate relief under specified circumstances.

**Subsection (c)** is necessary to specify warning requirements applicable to CSAS. The section requires that within three minutes of the vehicle being stopped, the parking brakes applied, the ignition being placed in the off position, and all floor level doors are closed, the CSAS must cause a warning to be emitted. The warning must consist of a tone, flashing light, or both which meet specified requirements. Without regard to any exceptions, the subsection requires the CSAS to emit the required warning immediately upon the opening of any floor level door. The

subsection prohibits the CSAS, once activated, from being deactivated under any conditions other than those specified. The subsection also prohibits deactivation of the CSAS once activated, unless the vehicle is stopped, the parking brakes are applied, the ignition is placed in the off position, and all floor level doors are closed. These requirements have been determined by the CHP provide the best method to ensure no pupil is left unattended on any of the specified vehicles.

The subsection specifies the required warning will consist of a tone, flashing light, or both which must be audible or visible from not less than 50 feet from the vehicle with all doors and windows in the closed and locked position. This is intended to ensure attention is drawn to any vehicle equipped with a CSAS, when the device has been activated, but not yet deactivated, and the required warning is initiated, in order to ensure no pupil is left onboard the vehicle unattended, even in the case of inadvertent oversight by the driver. The subsection specifies that once initiated, the required warning will be emitted for not less than 30 continuous minutes unless deactivated by driver manual contact with the CSAS or scanning of the device as defined within the section. Driver manual contact or scanning of the device will cause the warning to cease.

**Subsection (c)(1)** is necessary to permit connection of the CSAS with required or authorized lighting devices or other systems to preclude emission of the required warning while the driver is actively engaged in loading, unloading, or escorting of pupils as required by any provision of law. Connection with the specified devices has been determined by the CHP to provide the best automated method to permit an otherwise required warning from being initiated during loading, unloading, or escorting pupils as required by law. During these activities, although the driver may not remain onboard the vehicle, pupils are not deemed to be left unattended. The subsection specifies that once the CSAS is activated as required, it shall remain activated unless deactivated as provided. Additionally, if deactivated the CSAS must again be activated as required by subsection (b) of the section.

**Subsection (c)(2)** is necessary to further specify CSAS warning initiation requirements. For example, the subsection permits, but does not require, a delay in the initiation of the required warning for not more than three minutes from the time specified in subsection (c). The subsection specifies deactivation of the CSAS by driver manual contact or scanning of the device will cause the warning to cease. The CHP has determined the specified time delay will facilitate thorough inspection of the vehicle interior.

**Subsection (c)(3)** is necessary to permit use of the vehicle horn in fulfilling warning tone requirements and to specify visibility requirements for the required warning when the CSAS is configured with only flashing lights used to fulfill the warning requirements. When the required warning consists of only flashing lights, the lights must be visible within the interior of the vehicle and for 360 degrees around the exterior of the vehicle. The CHP has determined these requirements will ensure flashing lights will be visible and an audible warning can be heard once initiated, in the interest of pupil safety.

**Subsection (c)(4)** is necessary to specify interior lighting requirements associated with operation of the CSAS. The CSAS must be configured to ensure that when it is activated, the vehicle is stopped, the parking brakes are applied, the ignition is placed in the off position, all

floor level doors are closed and sufficient interior lighting is immediately provided to facilitate a complete and thorough search of the interior of the vehicle, including interior package carrying areas, under all seats, and throughout the driver compartment. This is intended to ensure the driver's inspection of the interior of the vehicle does not overlook or omit any pupil remaining onboard the vehicle. These requirements have been determined by the CHP to be the minimum required to ensure a facilitate a full and thorough inspection of the entire interior of the vehicle.

The subsection permits use of interior lighting required by Section 1217 CCR in fulfilling the interior lighting requirements. Additionally, once illuminated, the interior lighting must remain illuminated for not less than one minute following deactivation of the device and extinguish automatically. This requirement is intended to permit safe and efficient exit of the vehicle by the driver and ensure the interior lights do not remain illuminated unnecessarily.

**Subsection (c)(4)(A)** is added to provide an interior lighting requirement alternative when the design of the vehicle precludes configuration of the CSAS to illuminate installed vehicle interior lighting devices. This provision requires the driver to ensure sufficient interior lighting is provided to facilitate a search of the interior of the vehicle in this case. This alternative is intended to provide an alternative method of providing sufficient interior lighting to facilitate the required search of the interior of the vehicle in a limited number of cases. The alternative is necessary to accommodate the many, varied types of vehicles, construction methods, and lighting configurations of vehicles subject to the requirements.

Any such design preclusion must be certified in writing by the vehicle manufacturer or an independent engineer, a legible copy of the certification must be carried in the vehicle, and the certification must be made available for inspection upon request of any authorized employee of the CHP, a parent or guardian of any pupil transported on the vehicle, or any interested member of the public. Additionally, the subsection specifies the original design preclusion certification must be retained by the motor carrier and transferred to the next operator upon sale or change of possession of the vehicle. These requirements have been determined by the CHP the minimum necessary to provide appropriate responsibility for interior illumination and design preclusion determinations in the interest of pupil safety rather than economy.

**Subsection (d)** is added to specify CSAS mounting requirements. The subsection requires the CSAS to be permanently mounted at the rearmost, interior portion of the vehicle. The mounting must be of sufficient strength and durability to ensure the device remains securely and safely mounted during all modes of vehicle operation. Additionally, the device mounting must be secure, resistant to tampering, and sufficiently durable to withstand all normal and anticipated vehicle operation, without detriment to the device or its mounting.

These requirements are necessary to ensure the CSAS is mounted in a location and in a manner consistent with the requirement of Section 28160 CVC. Additionally, the mounting integrity and securement requirements are intended to ensure the device is not removed from its mounting intentionally or inadvertently through tampering or operation of the vehicle, and to ensure the device mounting is of sufficient durability to prohibit the device from becoming dislodged and impacting a passenger. The mounting requirements are further intended to prohibit temporary installation and the use of light-duty adhesives or other insufficient mounting processes, procedures, and methods. These requirements have been determined to be

the minimum device mounting requirements necessary to ensure ongoing, uninterrupted operation of the CSAS under all modes of vehicle operation.

**Subsection (e)** is added to clarify CSAS operational requirements under specified conditions. For example, the subsection requires the CSAS to be operational under all reasonably anticipated conditions of temperature, time, vehicle loading and vehicle status. These requirements are necessary to ensure any CSAS remains operational without regard to extreme temperatures in the operating environment, notwithstanding the extent to which the vehicle is loaded, and without regard to the duration of operation or age of the device or vehicle within which it is installed. These requirements have been determined to be the minimum device power requirements necessary to ensure ongoing, uninterrupted operation of the CSAS under all modes of vehicle operation and prohibit violation of any applicable Federal Motor Vehicle Safety Standard (FMVSS), law, or regulation in the interest of pupil safety.

The subsection permits the device to be powered by mechanical, electrical, or electromechanical means. However, without regard to the means by which the device is powered, the power must be of sufficient quantity and means to ensure the device and required warnings remain operational for the duration required by the section. The subsection further permits the device to be connected to the vehicle electrical system, but prohibits any such configuration or installation from removing, disabling, or rendering ineffective any item or element of design required by any FMVSS applicable at the time of manufacture, or applicable to the vehicle subsequent to its original manufacture date.

**Subsection (f)** is added to require documentation of any CSAS failure. The documentation must include a description of the malfunction, any and all repairs or adjustments made to restore correct functionality, and be retained by the motor carrier or operator of the vehicle for not less than two years. Any such documentation must be made available for inspection upon request of any authorized employee of the CHP. This requirement is consistent with and applicable in addition to other vehicle repair and maintenance documentation requirements contained in applicable statutes and Chapter 6.5 of this code. This requirement is necessary to ensure accountability of vehicle operators relative to installation and ongoing operation of CSAS. The CHP has determined this requirement to be the minimum necessary to ensure ongoing compliance with CSAS operability requirements and provide the CHP adequate documentation to support a determination of ongoing compliance or lack thereof.

**Subsection (f)(1)** is added to ensure any malfunction of the CSAS is made known to the party responsible for its installation and operation. This is necessary to ensure any driver who becomes aware of any CSAS malfunction immediately reports the malfunction to the motor carrier or operator of the vehicle in order to facilitate expeditious and appropriate repair or replacement of the device. The requirements permit initial notification to be made via radio or other electronic communication, but further require the driver to note the malfunction on the driver's daily vehicle inspection report required by Section 1215 CCR or other document submitted to the motor carrier. This documentation requirement has been determined by the CHP to be the minimum required to ensure proper notification and accountability for compliance with CSAS mounting and functionality requirements.

**Subsection (g)** is necessary to provide definitions of terms and phrases used within the section, not otherwise defined, specific to the installation, mounting, and operation of CSAS. The entire Subsection (g) has been determined by the CHP to provide the required clarification of terms used within the Section to ensure increased understanding, ongoing compliance with CSAS installation and operation requirements, and alleviate inconsistencies as a result of interpretation of undefined words and phrases.

**Subsection (g)(1)** is necessary to define “Child Safety Alert System” as used in the section. A CSAS is defined as a device installed as required within the section which requires driver manual, electronic, or a combination of mechanical and electronic interaction prior to exiting the vehicle. This is intended to clarify a CSAS consistent with the requirements contained in Section 28160 CVC.

**Subsection (g)(2)** is necessary to clarify the phrase “manually contact” as used in the section. For the purpose of CSAS, the term means the driver must physically contact the device by pushing one or more buttons, entering a unique personal identification code, or any other means recognized by the device. This requirement is intended to prohibit remote interaction with the device through electronic control or other means, but permit any physical or electronic interaction requiring the driver to be in close physical proximity to the device. This definition ensures the driver is at the rearmost portion of the interior of the vehicle when interacting with the device to ensure and facilitate inspection of the interior of the vehicle as required by Section 28160 CVC.

**Subsection (g)(3)** is necessary to clarify the term “swipe” as used in the section. The term includes, but is not limited to, interaction with the device by means of an electro-magnetic card or other means recognized by the device which does not require the driver to push a button or otherwise contact the device manually, but requires the driver to be in close physical proximity. The subsection also permits biometric identification of an individual in a manner recognized by the device and requires the person to be in close physical proximity to the device. This definition ensures the driver is at the rearmost portion of the interior of the vehicle when interacting with the device to ensure and facilitate inspection of the interior of the vehicle as required by Section 28160 CVC.

**Subsection (g)(4)** is necessary to define the phrase “prior to exiting the vehicle” as used in the section. The phrase means the interval during which the vehicle is stopped, the parking brakes are applied, the ignition is in the off position, all floor level doors are closed, and before the driver disembarks the vehicle by means of a floor level door. This phrase is intended to exclude instances during which a driver is actively engaged in loading, unloading, or escorting pupils as required by law. During these activities, for the purpose of the section, the driver is not deemed to have exited the vehicle. This is intended to be consistent with statutory requirements, alleviate unnecessarily requiring deactivation of CSAS, and expedite the safe transportation of pupils.

**Subsection (g)(5)** is necessary to clarify the terms “active,” “activate,” and “activated” as used in the section. These terms mean the CSAS is armed and will cause the required warnings to be emitted as required by the section. Additionally, the definition clarifies that any activated device may only be deactivated by driver manual contact or swiping of the device.

**Subsection (g)(6)** is necessary to clarify the phrase “audible or visible warning” as used in the section. The phrase or individual terms mean the tone, flashings lights, or both required to be emitted under the conditions contained in the section. This is intended to ensure clarity in interpreting the warning initiation and emission requirements.

**Subsection (g)(7)** is necessary to provide clarification of requirements contained in the section, associated with visible warnings. Visible warnings consisting of flashing lights must operate at a flash rate of 60 to 120 flashes per minute, with a 40 to 60 percent on-time when in operation. The required flash rate is consistent with requirements contained within the CVC and applicable to other required and permitted flashing lights installed on vehicles. The 40 to 60 percent on-time is also consistent with other flashing light requirements contained within the CVC and intended to ensure both consistency in the requirements and optimum visibility of the warning.

**Subsection (g)(8)** is necessary to clarify the term “tone” as used within the section. Tone means an audible sound which is readily recognizable as a warning. The definition permits a tone which is unvarying, variable, or discontinuous, but requires the tone to repeat at a rate lower than 90 cycles per minute. Additionally, the tone and any harmonics associated therewith must be lower than 100 Hz or higher than 5,000 Hz. These cycle and frequency requirements are consistent with warning tone requirements contained within the CVC and applicable to devices on vehicles. The intent of the requirements is to ensure consistency, universal recognition of the tone as a warning, and maximum effect of the warning.

## **ALTERNATIVES**

The CHP has not identified, nor been made aware of, an alternative which would be as effective and less burdensome to affected parties than the proposed action. Additionally, the CHP has not identified an alternative which would be more cost effective to affected parties and equally effective in implementation of the statutory policy or other provision of law.

## **LOCAL MANDATE**

These regulations will impose new mandates on school districts as directed by 28160 CVC. Since these regulations are a result of legislation defining a new crime, subvention of funds is not required per Sections 17500-17630 of the Government Code (GC).

## **ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

### **Creation or Elimination of Jobs in the State of California**

The CHP evaluated whether jobs would be affected in the State of California. There is no indication that businesses which are operating vehicles subject to CSAS will result in hiring more personnel, and it is not anticipated it will lead to layoffs or downsizing as a direct result of this rulemaking action. Due to the fact this proposed rulemaking is merely providing the necessary specifications, installation and use of the CSAS, this proposed rulemaking will have

little impact on jobs. It is anticipated there may be a temporary positive economic impact to small businesses that retrofit existing modified school buses and to businesses that sell and install the required CSAS. Therefore, the CHP has determined this rulemaking action will neither create, nor eliminate jobs in the State of California, nor result in the elimination of existing businesses or create or expand businesses in the State of California. Based on the above findings, this proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. This proposed regulatory action will have no effect on housing costs.

### **Creation, Expansion or Elimination of Businesses in the State of California**

The CHP evaluated whether businesses would be affected in the State of California. No adverse impact was identified. Additionally, the CHP has made the initial determination this proposed regulatory action will not affect the creation of new businesses, the expansion of existing businesses, or the elimination of existing businesses.

### **Benefits of the Regulation**

The CHP has evaluated the potential benefits of this proposed regulatory action. This proposed regulatory action will provide a benefit to the protection and public safety of pupils transported on specified school buses by providing the necessary specifications, installation, and use of the CSAS necessary to ensure that a pupil is not left unattended on a school bus.

### **FISCAL IMPACT TO THE STATE**

The CHP estimates there are approximately 24,000 school buses required to be retrofitted with the CSAS. The CHP contacted various vendors to receive an approximate cost needed to purchase and install CSAS in a school bus. The estimates for the CSAS ranged from \$1115.00 - \$1250.00 depending on vehicle configuration and vendor. With the total number of school buses estimated and the approximate cost per CSAS unit installed, the CHP estimates the overall fiscal impact to the school bus industry would range from \$26.8 to \$30 million.

These regulations will not impose a cost that requires reimbursement to local agencies or school districts under Part 7 (commencing with Section 17500) of Division 4 of the GC since the regulations are a result of legislation defining a new crime.

The CHP has determined these regulations will have no impact on the level of employment in the state. These regulations will have no impact on the competitiveness of this state to retain businesses.