

AMENDED IN ASSEMBLY MAY 26, 2006

AMENDED IN ASSEMBLY MAY 8, 2006

AMENDED IN ASSEMBLY MAY 1, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2210

**Introduced by Assembly Member Goldberg
(Principal coauthor: Assembly Member Torrico)
(Coauthors: Assembly Members Koretz and Niello)**

February 22, 2006

An act to amend Sections 21100, 22658, 22658.2, 22851, 22953, ~~34621~~, and 40000.15 of, ~~and to add Section 34620.1 to~~, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2210, as amended, Goldberg. Tow trucks: regulating.

(1) Existing statutory law authorizes a city or county to adopt rules and regulations by ordinance or resolution regarding, among other things, licensing and regulating the operation of tow truck service or tow truck drivers whose principal place of business or employment is within the jurisdiction of that local authority, except as specified.

This bill would express certain legislative findings regarding the safety and welfare of the general public as being promoted in allowing local authorities to license and regulate tow truck service companies and their operators.

(2) Existing law requires a towing company to remove a vehicle parked on private property to the nearest public garage under specific circumstances if, among other things, the property owner or lessee's prior written authorization is obtained and imposes certain duties on

the tow truck company and storage facilities and their operators. Under existing law, civil causes of action are established for violating these provisions and it is an infraction, under the Vehicle Code, for a person to violate, or fail to comply with the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code.

This bill would substantially recast these provisions by requiring, among other things, that the described written authorization from the property owner or the lessee contain certain specific information. The bill would also require the towing company to provide a photocopy, as specified, of the written authorization to the vehicle owner or an agent of that owner, when that person claims the vehicle and prior to payment, would prohibit a towing company from removing or commencing the removal of a vehicle from certain private property unless the towing company has made a good faith inquiry to determine that the owner or the property owner's agent complied with certain statutory restrictions regarding the removal of a vehicle from certain private property. The bill would require a towing company to maintain certain records. The bill would make a violation of these provisions, a misdemeanor, thereby imposing a state-mandated local program by creating new crimes, and subject to civil actions.

The bill would require, upon a vehicle owner's request, a towing company or its driver to immediately and unconditionally release a vehicle that is not yet removed from private property and in transit. The bill would make it a misdemeanor to violate this requirement and to knowingly charge a vehicle owner a towing, service, or charge that exceeds statutorily imposed rates, thereby imposing a state-mandated local program by creating new crimes.

This bill would require a person operating or in charge of a storage facility to conspicuously display in that portion of the office where business is conducted with the public a notice advising that all valid credit cards, as defined, and cash are acceptable means of payment.

The bill would make the failure to comply with these display requirements or to fail to accept valid credit card or cash payments a misdemeanor, thereby, imposing a state-mandated local program by creating new crimes.

This bill would make it a misdemeanor for a towing company that removes a vehicle from private property to fail to notify the local law enforcement agency of the tow within 60 minutes after the vehicle is removed from the private property and is in transit, thereby imposing a state-mandated local program by creating a new crime.

The bill would express the intent of the Legislature regarding vehicle possession and promoting the safety of the general public, and would specify that the remedies provided in these provisions are not exclusive and are in addition to other remedies or procedures that may be provided in other provisions of law.

This bill would require that a vehicle removed from private property be stored at in a facility that meets specified requirements. Because the failure to comply with these requirements would be a crime, the bill would impose a state-mandated local program.

(3) Existing law limits a towing company to imposing a charge of not more than $\frac{1}{2}$ of the regular towing charge for the towing of a vehicle at the request of the owner of private property or that owner's agent if the owner of the vehicle or the vehicle owner's agent returns to the vehicle before it is removed from the private property.

This bill would recast that provision to limit a towing company to $\frac{1}{2}$ of the regular towing charge of a vehicle that is towed at the request of the owner, the owner's agent, or the person in lawful possession of the private property if the owner of the vehicle or the vehicles owner's agent returns to the vehicle after the vehicle is coupled to the tow truck, as specified, or is lifted off the ground by means of conventional trailer, and before it is removed from the private property.

~~(4) Existing law prohibit a motor carrier operating under the Motor Carriers of Property Permit Act to operate on a public highway unless, among other things, it holds a valid motor carrier permit issued to that motor carrier by the Department of Motor Vehicles.~~

~~This bill would prohibit the department from issuing a motor carrier permit to a towing company if its corporate officer, owner, manager, or operator has been convicted of a felony or certain misdemeanors or if it employs a driver who has been convicted of any one of those offenses.~~

~~This bill would require the department to revoke a motor carrier permit issued to a towing company if it or its corporate officer, owner, or operator is convicted of one of those offenses or the towing company allows a driver to operate a tow vehicle knowing that the driver has been convicted of one of the offenses.~~

~~(5)~~

(4) Existing law prohibits an owner or person in lawful possession of private property that is held open to the public, or a discernible portion thereof, for parking of vehicles at no fee, from towing or

removing, or causing the towing or removal, of a vehicle within one hour of the vehicle being parked, except as excluded.

This bill would exclude from this prohibition a vehicle that is parked in a manner that interferes with an entrance to, or exit from, the private property.

This bill would also express legislative intent regarding promoting the safety of the general public, and would allow for a civil cause of action upon a violation of the above prohibition.

(6)

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 21100 of the Vehicle Code is amended
2 to read:

3 21100. Local authorities may adopt rules and regulations by
4 ordinance or resolution regarding the following matters:

5 (a) Regulating or prohibiting processions or assemblages on
6 the highways.

7 (b) Licensing and regulating the operation of vehicles for hire
8 and drivers of passenger vehicles for hire.

9 (c) Regulating traffic by means of traffic officers.

10 (d) Regulating traffic by means of official traffic control
11 devices meeting the requirements of Section 21400.

12 (e) Regulating traffic by means of a person given temporary or
13 permanent appointment for that duty by the local authority
14 whenever official traffic control devices are disabled or
15 otherwise inoperable, at the scenes of accidents or disasters, or at
16 locations as may require traffic direction for orderly traffic flow.

17 A person shall not be appointed pursuant to this subdivision
18 unless and until the local authority has submitted to the
19 commissioner or to the chief law enforcement officer exercising
20 jurisdiction in the enforcement of traffic laws within the area in

1 which the person is to perform the duty, for review, a proposed
2 program of instruction for the training of a person for that duty,
3 and unless and until the commissioner or other chief law
4 enforcement officer approves the proposed program. The
5 commissioner or other chief law enforcement officer shall
6 approve a proposed program if he or she reasonably determines
7 that the program will provide sufficient training for persons
8 assigned to perform the duty described in this subdivision.

9 (f) Regulating traffic at the site of road or street construction
10 or maintenance by persons authorized for that duty by the local
11 authority.

12 (g) (1) Licensing and regulating the operation of tow truck
13 service or tow truck drivers whose principal place of business or
14 employment is within the jurisdiction of the local authority,
15 excepting the operation and operators of any auto dismantlers'
16 tow vehicle licensed under Section 11505 or any tow truck
17 operated by a repossessing agency licensed under Chapter 11
18 (commencing with Section 7500) of Division 3 of the Business
19 and Professions Code and its registered employees.

20 (2) The Legislature finds that the safety and welfare of the
21 general public is promoted by permitting local authorities to
22 regulate tow truck service companies and operators that are
23 licensed and insured and properly trained in the safe operation of
24 towing equipment, thereby ensuring against towing mistakes that
25 may lead to violent confrontation, stranding motorists in
26 dangerous situations, impeding the expedited vehicle recovery,
27 and wasting state and local law enforcement's limited resources.

28 (3) Nothing in this subdivision shall limit the authority of a
29 city or city and county pursuant to Section 12111.

30 (h) Operation of bicycles, and, as specified in Section 21114.5,
31 electric carts by physically disabled persons, or persons 50 years
32 of age or older, on the public sidewalks.

33 (i) Providing for the appointment of nonstudent school
34 crossing guards for the protection of persons who are crossing a
35 street or highway in the vicinity of a school or while returning
36 thereafter to a place of safety.

37 (j) Regulating the methods of deposit of garbage and refuse in
38 streets and highways for collection by the local authority or by
39 any person authorized by the local authority.

40 (k) (1) Regulating cruising.

1 (2) The ordinance or resolution adopted pursuant to this
2 subdivision shall regulate cruising, which is the repetitive driving
3 of a motor vehicle past a traffic control point in traffic that is
4 congested at or near the traffic control point, as determined by
5 the ranking peace officer on duty within the affected area, within
6 a specified time period and after the vehicle operator has been
7 given an adequate written notice that further driving past the
8 control point will be a violation of the ordinance or resolution.

9 (3) A person is not in violation of an ordinance or resolution
10 adopted pursuant to this subdivision unless both of the following
11 apply:

12 (A) That person has been given the written notice on a
13 previous driving trip past the control point and then again passes
14 the control point in that same time interval.

15 (B) The beginning and end of the portion of the street subject
16 to cruising controls are clearly identified by signs that briefly and
17 clearly state the appropriate provisions of this subdivision and the
18 local ordinance or resolution on cruising.

19 (l) Regulating or authorizing the removal by peace officers of
20 vehicles unlawfully parked in a fire lane, as described in Section
21 22500.1, on private property. A removal pursuant to this
22 subdivision shall be consistent, to the extent possible, with the
23 procedures for removal and storage set forth in Chapter 10
24 (commencing with Section 22650).

25 SEC. 2. Section 22658 of the Vehicle Code is amended to
26 read:

27 22658. (a) Except as provided in Section 22658.2, the owner
28 or person in lawful possession of private property, within one
29 hour of notifying, by telephone or, if impractical, by the most
30 expeditious means available, the local traffic law enforcement
31 agency, may cause the removal of a vehicle parked on the
32 property to the nearest public garage under any of the following
33 circumstances:

34 (1) There is displayed, in plain view at all entrances to the
35 property, a sign not less than 17 inches by 22 inches in size, with
36 lettering not less than one inch in height, prohibiting public
37 parking and indicating that vehicles will be removed at the
38 owner's expense, and containing the telephone number of the
39 local traffic law enforcement agency. The sign may also indicate
40 that a citation may also be issued for the violation.

1 (2) The vehicle has been issued a notice of parking violation,
2 and 96 hours have elapsed since the issuance of that notice.

3 (3) The vehicle is on private property and lacks an engine,
4 transmission, wheels, tires, doors, windshield, or any other major
5 part or equipment necessary to operate safely on the highways,
6 the owner or person in lawful possession of the private property
7 has notified the local traffic law enforcement agency, and 24
8 hours have elapsed since that notification.

9 (4) The lot or parcel upon which the vehicle is parked is
10 improved with a single-family dwelling.

11 (b) The person causing removal of the vehicle, if the person
12 knows or is able to ascertain from the registration records of the
13 Department of Motor Vehicles the name and address of the
14 registered and legal owner of the vehicle, shall immediately give,
15 or cause to be given, notice in writing to the registered and legal
16 owner of the fact of the removal, the grounds for the removal,
17 and indicate the place to which the vehicle has been removed. If
18 the vehicle is stored in a public garage, a copy of the notice shall
19 be given to the proprietor of the garage. The notice provided for
20 in this section shall include the amount of mileage on the vehicle
21 at the time of removal. If the person does not know and is not
22 able to ascertain the name of the owner or for any other reason is
23 unable to give the notice to the owner as provided in this section,
24 the person causing removal of the vehicle shall comply with the
25 requirements of subdivision (c) of Section 22853 relating to
26 notice in the same manner as applicable to an officer removing a
27 vehicle from private property.

28 (c) This section does not limit or affect any right or remedy
29 that the owner or person in lawful possession of private property
30 may have by virtue of other provisions of law authorizing the
31 removal of a vehicle parked upon private property.

32 (d) The owner of a vehicle removed from private property
33 pursuant to subdivision (a) may recover for any damage to the
34 vehicle resulting from any intentional or negligent act of a person
35 causing the removal of, or removing, the vehicle.

36 (e) An owner or person in lawful possession of private
37 property, or an "association" pursuant to Section 22658.2,
38 causing the removal of a vehicle parked on that property is liable
39 for double the storage or towing charges whenever there has been
40 a failure to comply with paragraph (1), (2), or (3) of subdivision

1 (a) or to state the grounds for the removal of the vehicle if
2 requested by the legal or registered owner of the vehicle as
3 required by subdivision (f).

4 (f) An owner or person in lawful possession of private
5 property, or an “association” pursuant to Section 22658.2,
6 causing the removal of a vehicle parked on that property shall
7 state the grounds for the removal of the vehicle if requested by
8 the legal or registered owner of that vehicle. A towing company
9 that removes a vehicle from private property in compliance with
10 subdivision (l) is not responsible in a situation relating to the
11 validity of the removal. A towing company that removes the
12 vehicle under this section shall be responsible for the following:

13 (1) Damage to the vehicle in the transit and subsequent storage
14 of the vehicle.

15 (2) The removal of a vehicle other than the vehicle specified
16 by the owner or other person in lawful possession of the private
17 property.

18 (g) (1) Possession of a vehicle under this section shall be
19 deemed to arise when a vehicle is removed from private property
20 and is in transit.

21 (2) Upon the request of the owner of the vehicle or that
22 owner’s agent, the towing company or its driver shall
23 immediately and unconditionally release a vehicle that is not yet
24 removed from the private property and in transit.

25 (3) A person failing to comply with paragraph (2) is guilty of
26 a misdemeanor.

27 (h) A towing company may impose a charge of not more than
28 one-half of the regular towing charge for the towing of a vehicle
29 at the request of the owner, the owner’s agent, or the person in
30 lawful possession of the private property pursuant to this section
31 if the owner of the vehicle or the vehicle owner’s agent returns to
32 the vehicle after the vehicle is coupled to the tow truck by means
33 of a regular hitch, coupling device, drawbar, portable dolly, or is
34 lifted off the ground by means of a conventional trailer, and
35 before it is removed from the private property. The regular
36 towing charge may only be imposed after the vehicle has been
37 removed from the property and is in transit.

38 (i) (1) A charge for towing or storage, or both, of a vehicle
39 under this section is excessive if the charge is greater than that
40 which would have been charged for that towing or storage, or

1 both, made at the request of a law enforcement agency under an
2 agreement between a towing company and the law enforcement
3 agency that exercises primary jurisdiction in the city in which is
4 located the private property from which the vehicle was, or was
5 attempted to be, removed, or if the private property is not located
6 within a city, then the law enforcement agency that exercises
7 primary jurisdiction in the county in which the private property is
8 located.

9 (2) If a vehicle is released within 24 hours from the time the
10 vehicle is brought into the storage facility, regardless of the
11 calendar date, the storage charge shall be for only one day. Not
12 more than one day's storage charge may be required for a vehicle
13 released the same day that it is stored.

14 (3) If a request to release a vehicle is made and the appropriate
15 fees are tendered and documentation establishing that the person
16 requesting release is entitled to possession of the vehicle, or is
17 the owner's insurance representative, is presented within the
18 initial 24 hours of storage, and the storage facility fails to comply
19 with the request to release the vehicle or is not open for business
20 during normal business hours, then only one day's storage charge
21 may be required to be paid until after the first business day. A
22 business day is any day in which the lienholder is open for
23 business to the public for at least eight hours. If a request is made
24 more than 24 hours after the vehicle is placed in storage, charges
25 may be imposed on a full calendar day basis for each day, or part
26 thereof, that the vehicle is in storage.

27 (j) (1) A person who charges a vehicle owner a towing,
28 service, or storage charge at an excessive rate, as described in
29 subdivision (h) or (i), is civilly liable to the vehicle owner for
30 four times the amount charged.

31 (2) A person who knowingly charges a vehicle owner a
32 towing, service, or storage charge at an excessive rate, as
33 described in subdivision (h) or (i), is guilty of a misdemeanor,
34 punishable by a fine of not more than two thousand five hundred
35 dollars (\$2,500), or by imprisonment in the county jail for not
36 more than three months, or by both that fine and imprisonment.

37 (k) (1) A person operating or in charge of a storage facility
38 where vehicles are stored pursuant to this section shall accept a
39 valid credit card, as defined in Section 6161 of the Government

1 Code, or cash for payment of towing and storage by a registered
2 owner or the owner's agent claiming the vehicle.

3 (2) A person described in paragraph (1) shall conspicuously
4 display, in that portion of the storage facility office where
5 business is conducted with the public, a notice advising that all
6 valid credit cards and cash are acceptable means of payment.

7 (3) A person operating or in charge of a storage facility who
8 refuses to accept a valid credit card or who fails to post the
9 required notice under paragraph (2) is guilty of a misdemeanor,
10 punishable by a fine of not more than two thousand five hundred
11 dollars (\$2,500), or by imprisonment in the county jail for not
12 more than three months, or by both that fine and imprisonment.

13 (4) A person described in paragraph (1) is civilly liable to the
14 registered owner of the vehicle or the person who tendered the
15 fees for four times the amount of the towing and storage charges,
16 but not to exceed five hundred dollars (\$500).

17 (5) A person operating or in charge of the storage facility shall
18 have sufficient moneys on the premises of the primary storage
19 facility during normal business hours to accommodate, and make
20 change in, a reasonable monetary transaction.

21 (6) Credit charges for towing and storage services shall
22 comply with Section 1748.1 of the Civil Code. Law enforcement
23 agencies may include the costs of providing for payment by
24 credit when making agreements with towing companies as
25 described in subdivision (i).

26 (l) (1) (A) A towing company shall not remove or commence
27 the removal of a vehicle from private property without first
28 obtaining written authorization from the property owner or
29 lessee, or an employee or agent thereof, who shall be present at
30 the time of removal. For the purpose of this subparagraph, the
31 person providing the written authorization shall be present on the
32 private property at the time of the tow, but does not have to be
33 physically present at the specified location of where the vehicle
34 to be removed is located on the private property.

35 (B) The written authorization under subparagraph (A) shall
36 include all of the following:

37 (i) The make, model, vehicle identification number, and
38 license plate number of the removed vehicle.

1 (ii) The name, signature, job title, residential or business
2 address and working telephone number of the person, described
3 in subparagraph (A), authorizing the removal of the vehicle.

4 (iii) The grounds for the removal of the vehicle.

5 (iv) The time when the vehicle was first observed parked at
6 the private property.

7 (v) The time when the vehicle was removed from the private
8 property.

9 (C) (i) When the vehicle owner or his or her agent claims the
10 vehicle, the towing company prior to payment of a towing or
11 storage charge shall provide a photocopy of the written
12 authorization to the vehicle owner or the agent.

13 (ii) If the vehicle was towed from a residential property, the
14 towing company shall redact the information specified in clause
15 (ii) of subparagraph (B) in the photocopy of the written
16 authorization provided to the vehicle owner or the agent pursuant
17 to clause (i).

18 (iii) The towing company shall also provide to the vehicle
19 owner or the agent a separate notice that provides the telephone
20 number of the appropriate local law enforcement or prosecuting
21 agency by stating “If you believe that you have been wrongfully
22 towed, please contact the local law enforcement or prosecuting
23 agency at [insert appropriate telephone number].” The notice
24 shall be in English and in the most populous language, other than
25 English, that is spoken in the jurisdiction.

26 (D) A towing company shall not remove or commence the
27 removal of a vehicle from private property described in
28 subdivision (a) of Section 22953 unless the towing company has
29 made a good faith inquiry to determine that the owner or the
30 property owner’s agent complied with Section 22953.

31 (E) General authorization to remove or commence removal of
32 a vehicle at the towing company’s discretion shall not be
33 delegated to a towing company or its affiliates except in the case
34 of a vehicle unlawfully parked within 15 feet of a fire hydrant or
35 in a fire lane, or in a manner which interferes with an entrance to,
36 or exit from, the private property.

37 (2) If a towing company removes a vehicle without written
38 authorization and that vehicle is unlawfully parked within 15 feet
39 of a fire hydrant or in a fire lane, or in a manner that interferes
40 with an entrance to, or exit from, the private property, the towing

1 company shall take, prior to the removal of that vehicle, a
2 photograph of the vehicle that clearly indicates that parking
3 violation. Prior to accepting payment, the towing company shall
4 keep one copy of the photograph taken pursuant to this
5 paragraph, and shall present that photograph and provide a
6 photocopy to the owner or an agent of the owner, when that
7 person claims the vehicle.

8 (3) A towing company shall maintain the original written
9 authorization with the photographs, required pursuant to this
10 section, for a period of three years and shall make them available
11 for inspection and copying without a warrant to law enforcement,
12 the Attorney General, district attorney, or city attorney.

13 (4) A person who violates this subdivision is guilty of a
14 misdemeanor, punishable by a fine of not more than two
15 thousand five hundred dollars (\$2,500), or by imprisonment in
16 the county jail for not more than three months, or by both that
17 fine and imprisonment.

18 (5) A person who violates this subdivision is civilly liable to
19 the owner of the vehicle or his or her agent for four times the
20 amount of the towing and storage charges.

21 (m) (1) A towing company that removes a vehicle from
22 private property under this section shall notify the local law
23 enforcement agency of that tow within 60 minutes after the
24 vehicle is removed from the private property and is in transit.

25 (2) A violation of paragraph (1) is a misdemeanor.

26 (n) A vehicle removed from private property pursuant to this
27 section shall be stored in a facility that meets all of the following
28 requirements:

29 (1) (A) Is located within a 10-mile radius of the property from
30 where the vehicle was removed.

31 (B) The 10-mile radius requirement of subparagraph (A) does
32 not apply if a towing company has prior general written approval
33 from the law enforcement agency that exercises primary
34 jurisdiction in the city in which is located the private property
35 from which the vehicle was removed, or if the private property is
36 not located within a city, then the law enforcement agency that
37 exercises primary jurisdiction in the county in which is located
38 the private property.

39 (2) (A) Remains open during normal business hours and
40 releases vehicles during normal business hours.

1 (B) “Normal business hours,” for purposes of subparagraph
2 (A), includes that time that a towing company removes a vehicle
3 from property and an additional two hours after the towing
4 company has notified the law enforcement agency of the last
5 vehicle brought in, but not less than Monday to Friday, 8 a.m. to
6 5 p.m., inclusive, excepting state holidays.

7 (3) Has a public pay telephone in the office area that is open
8 and accessible to the public.

9 (o) (1) It is the intent of the Legislature in the adoption of
10 subdivision (k) to assist vehicle owners or their agents by, among
11 other things, allowing payment by credit cards for towing and
12 storage services, thereby expediting the recovery of towed
13 vehicles and concurrently promoting the safety and welfare of the
14 public.

15 (2) It is the intent of the Legislature in the adoption of
16 subdivision (l) to further the safety of the general public by
17 ensuring that a private property owner or lessee has provided his
18 or her authorization for the removal of a vehicle from his or her
19 property, thereby promoting the safety of those persons involved
20 in ordering the removal of the vehicle as well as those persons
21 removing, towing, and storing the vehicle.

22 (3) It is the intent of the Legislature in the adoption of
23 subdivision (g) to promote the safety of the general public by
24 requiring towing companies to unconditionally release a vehicle
25 that is not lawfully in their possession, thereby avoiding the
26 likelihood of dangerous and violent confrontation and physical
27 injury to vehicle owners and towing operators, the stranding of
28 vehicle owners and their passengers at a dangerous time and
29 location, and impeding expedited vehicle recovery, without
30 wasting law enforcement’s limited resources.

31 (p) The remedies provided in this section are not exclusive and
32 are in addition to other remedies or procedures that may be
33 provided in other provisions of law.

34 SEC. 3. Section 22658.2 of the Vehicle Code is amended to
35 read:

36 22658.2. (a) Except as provided in subdivision (b), an
37 “association”, as defined in subdivision (a) of Section 1351 of the
38 Civil Code, of a common interest development, as defined in
39 subdivision (c) of Section 1351 of the Civil Code, may cause the

1 removal of a vehicle parked on that property to the nearest public
2 garage if all of the following requirements are satisfied:

3 (1) A sign not less than 17 by 22 inches in size with lettering
4 not less than one inch in height appears at each entrance to the
5 common interest development and contains both of the
6 following:

7 (A) A statement that public parking is prohibited and all
8 vehicles not authorized to park on the common interest
9 development will be removed at the owner's expense.

10 (B) The telephone number of the local traffic law enforcement
11 agency.

12 The sign may also indicate that a citation may be issued for the
13 violation.

14 (2) If the identity of the registered owner of the vehicle is
15 known or readily ascertainable, the president of the association or
16 his or her designee shall, within a reasonable time, notify the
17 owner of the removal by first-class mail. If the identity of the
18 owner of the vehicle is not known or ascertainable, the president
19 of the association or his or her designee shall comply with
20 subdivision (c) of Section 22853.

21 (3) The president of the association or his or her designee,
22 gives or causes to be given, notice of the removal to the local
23 traffic law enforcement agency immediately after the vehicle has
24 been removed. The notice shall include a description of the
25 vehicle, the license plate number, and the address from where the
26 vehicle was removed.

27 (b) The association may cause the removal without notice of
28 any vehicle parked in a marked fire lane, within 15 feet of a fire
29 hydrant, in a parking space designated for disabled persons
30 without proper authority, or in a manner that interferes with an
31 entrance to, or exit from, the common interest development or a
32 separate interest contained therein.

33 (c) Notwithstanding Section 1708 of the Civil Code, the
34 association is not liable for damages incurred by the vehicle
35 owner because of the removal of a vehicle in compliance with
36 this section or for damage to the vehicle caused by the removal.
37 However, the owner of a vehicle removed pursuant to this section
38 may recover for damage to the vehicle that results from an
39 intentional or negligent act of the association or a person causing
40 the removal of, or removing, the vehicle.

1 (d) Notwithstanding any other provision of law, subdivisions
2 (f) to (l), inclusive, of Section 22658 apply to the removal of
3 vehicles pursuant to this section.

4 SEC. 4. Section 22851 of the Vehicle Code is amended to
5 read:

6 22851. (a) (1) Whenever a vehicle has been removed to a
7 garage under this chapter and the keeper of the garage has
8 received the notice or notices as provided herein, the keeper shall
9 have a lien dependent upon possession for his or her
10 compensation for towage and for caring for and keeping safe the
11 vehicle for a period not exceeding 60 days or, if an application
12 for an authorization to conduct a lien sale has been filed pursuant
13 to Section 3068.1 of the Civil Code within 30 days after the
14 removal of the vehicle to the garage, 120 days and, if the vehicle
15 is not recovered by the owner within that period or the owner is
16 unknown, the keeper of the garage may satisfy his or her lien in
17 the manner prescribed in this article. The lien shall not be
18 assigned. Possession of the vehicle is deemed to arise when a
19 vehicle is removed and is in transit, or when vehicle recovery
20 operations or load salvage operations that have been requested by
21 a law enforcement agency have begun at the scene.

22 (2) Whenever a vehicle owner returns to a vehicle that is in
23 possession of a towing company prior to the removal of the
24 vehicle, the owner may regain possession of the vehicle from the
25 towing company if the owner pays the towing company the
26 towing charges.

27 (b) A lien shall not attach to personal property in or on the
28 vehicle. The personal property in or on the vehicle shall be given
29 to the current registered owner or the owner's authorized agent
30 upon demand and without charge during normal business hours.
31 Notwithstanding any other provision of law, normal business
32 hours are the time that a towing company removes a vehicle from
33 property and an additional two hours after the towing company
34 has notified the law enforcement agency of the last vehicle
35 brought in, but not less than Monday to Friday, inclusive, from 8
36 a.m. to 5 p.m., inclusive, except state holidays. A gate fee may be
37 charged for returning property after normal business hours,
38 weekends, and state holidays. The maximum hourly charge for
39 nonbusiness hours releases shall be one-half the hourly tow rate
40 charged for initially towing the vehicle, or less. The lienholder is

1 not responsible for property after a vehicle has been disposed of
2 pursuant to this chapter.

3 SEC. 5. Section 22953 of the Vehicle Code is amended to
4 read:

5 22953. (a) An owner or person in lawful possession of
6 private property that is held open to the public, or a discernible
7 portion thereof, for parking of vehicles at no fee, or an employee
8 or agent thereof, shall not tow or remove, or cause the towing or
9 removal, of a vehicle within one hour of the vehicle being
10 parked.

11 (b) Notwithstanding subdivision (a), a vehicle may be
12 removed immediately after being illegally parked within 15 feet
13 of a fire hydrant, in a fire lane, in a manner that interferes with an
14 entrance to, or an exit from, the private property, or in a parking
15 space or stall legally designated for disabled persons.

16 (c) Subdivision (a) does not apply to property designated for
17 parking at an apartment complex, or to property designated for
18 parking at a hotel or motel where the parking stalls or spaces are
19 clearly marked for a specific room.

20 (d) It is the intent of the Legislature in the adoption of
21 subdivision (a) to avoid causing the unnecessary stranding of
22 motorists and placing them in dangerous situations, when traffic
23 citations and other civil remedies are available, thereby
24 promoting the safety of the general public.

25 (e) A person who violates subdivision (a) is civilly liable to
26 the owner of the vehicle or his or her agent for two times the
27 amount of the towing and storage charges.

28 ~~SEC. 6. Section 34620.1 is added to the Vehicle Code, to~~
29 ~~read:~~

30 ~~34620.1. (a) The department shall not issue a motor carrier~~
31 ~~permit to a towing company if it, or its corporate officer, owner,~~
32 ~~manager, or operator has been convicted of a felony or a~~
33 ~~misdemeanor under Section 10851 or 10852, relating to theft and~~
34 ~~unlawful driving or taking of a vehicle, and vehicle tampering,~~
35 ~~respectively, or under Section 520 or 524 of the Penal Code,~~
36 ~~relating to extortion and attempted extortion, respectively, or~~
37 ~~under subdivision (a) of Section 487 of the Penal Code, relating~~
38 ~~to grand theft, or if it employs a driver who has been convicted of~~
39 ~~any one of those offenses.~~

1 ~~(b) The department shall revoke a motor carrier permit issued~~
2 ~~to a towing company if it or its corporate officer, owner,~~
3 ~~manager, or operator is convicted of one of the offenses~~
4 ~~described in subdivision (a) or the towing company allows a~~
5 ~~driver to operate a tow vehicle knowing that the driver has been~~
6 ~~convicted of one of the offenses described in subdivision (a).~~

7 SEC. 7. Section 34621 of the Vehicle Code is amended to
8 read:

9 34621. (a) The fee required by Section 7232 of the Revenue
10 and Taxation Code shall be paid to the department upon initial
11 application for a motor carrier permit and for annual renewal.

12 ~~(b) An application for an original or a renewal motor carrier~~
13 ~~permit shall contain all of the following information:~~

14 ~~(1) The full name of the motor carrier; any fictitious name~~
15 ~~under which it is doing business; address, both physical and~~
16 ~~mailing; and business telephone number.~~

17 ~~(2) Status as individual, partnership, owner-operator, or~~
18 ~~corporation, and officers of corporation and all partners.~~

19 ~~(3) Name, address, and driver's license number of~~
20 ~~owner-operator.~~

21 ~~(4) California carrier number, number of commercial motor~~
22 ~~vehicles in fleet, interstate or intrastate operations, State Board of~~
23 ~~Equalization, federal Department of Transportation or Interstate~~
24 ~~Commerce Commission number, as applicable.~~

25 ~~(5) Transporter or not a transporter of hazardous materials or~~
26 ~~petroleum.~~

27 ~~(6) Evidence of financial responsibility.~~

28 ~~(7) Evidence of workman's compensation coverage, if~~
29 ~~applicable.~~

30 ~~(8) Carrier certification of enrollment in the biennial~~
31 ~~inspection of terminals (BIT) program under subdivisions (e) and~~
32 ~~(h) of Section 34501.12, unless otherwise exempted.~~

33 ~~(9) Carrier certification of enrollment in a controlled substance~~
34 ~~and alcohol use and testing (CSAT) program required under~~
35 ~~Section 34520, unless otherwise exempted.~~

36 ~~(10) Other information necessary to enable the department to~~
37 ~~determine whether the applicant is entitled to a permit, including,~~
38 ~~but not limited to, information necessary to establish the~~
39 ~~eligibility to issue a motor carrier permit to the towing operator~~
40 ~~in compliance with Section 34620.1.~~

1 ~~SEC. 8.~~

2 *SEC. 6.* Section 40000.15 of the Vehicle Code is amended to
3 read:

4 40000.15. A violation of any of the following provisions shall
5 constitute a misdemeanor, and not an infraction:

6 Subdivision (g), (j), (k), (l), or (m) of Section 22658, relating to
7 unlawfully towed or stored vehicles.

8 Sections 23103 and 23104, relating to reckless driving.

9 Section 23109, relating to speed contests or exhibitions.

10 Subdivision (a) of Section 23110, relating to throwing at
11 vehicles.

12 Section 23152, relating to driving under the influence.

13 Subdivision (b) of Section 23222, relating to possession of
14 marijuana.

15 Subdivision (a) or (b) of Section 23224, relating to persons
16 under 21 years of age knowingly driving, or being a passenger in,
17 a motor vehicle carrying any alcoholic beverage.

18 Section 23253, relating to officers on vehicular crossings.

19 Section 23332, relating to trespassing.

20 Section 24002.5, relating to unlawful operation of a farm
21 vehicle.

22 Section 24011.3, relating to vehicle bumper strength notices.

23 Section 27150.1, relating to sale of exhaust systems.

24 Section 27362, relating to child passenger seat restraints.

25 Section 28050, relating to true mileage driven.

26 Section 28050.5, relating to nonfunctional odometers.

27 Section 28051, relating to resetting odometers.

28 Section 28051.5, relating to devices to reset odometers.

29 Subdivision (d) of Section 28150, relating to possessing four or
30 more jamming devices.

31 ~~SEC. 9.~~

32 *SEC. 7.* No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the
37 penalty for a crime or infraction, within the meaning of Section
38 17556 of the Government Code, or changes the definition of a

1 crime within the meaning of Section 6 of Article XIII B of the
2 California Constitution.

O