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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, 22651.7, 22658, 22953, ~~34660~~, and 40000.15 of, and to repeal Section 22658.2 of, 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, and that the tow truck operator, notify the registered and legal owner of the fact of the removal of a vehicle, the grounds for the removal, and the place where the vehicle has been removed, under specified conditions. 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, an infraction or 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.

The bill would require the operator of a storage facility to include on a specified sign the telephone number of a tow truck company if the storage company is under contract with the tow truck company.

Because the failure to comply with this requirement would be a crime, this bill would impose a state-mandated local program.

This bill would require a towing operator to make available for inspection and copying, his or her rate approved by the California Highway Patrol within 24 hours of a request to specified entities. The bill would make it a misdemeanor to violate this requirement, thereby imposing a state-mandated local program by creating new crimes.

The bill would require an owner or the owner's authorized agent of a vehicle that has been released, as described above, to immediately move that vehicle to a lawful location. Because the failure to comply with this requirement would be a crime, this bill would impose a state-mandated local program.

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~~ *require* a towing company that removes a vehicle from private property ~~to fail to notify the local law enforcement agency of the tow within 60~~ 15 minutes after the vehicle is removed from the private property and is in transit. *A violation of this requirement would subject the towing company to civil penalties; however, if the towing company fails to notify the local law enforcement or notifies the local law enforcement agency more than 60 minutes after that removal, the towing company, additionally, is guilty of a misdemeanor,* 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, sanctions, restrictions, and procedures provided in these provisions are not exclusive and are in addition to other remedies, sanctions, restrictions, or procedures that may be provided in other provisions of law.

This bill would require that a vehicle removed from private property be stored in a storage 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 authorizes a peace officer, as defined, or a regularly employed and salaried employee who is engaged in directing traffic or enforcing parking laws and regulations of the jurisdiction in which a vehicle is located, to immobilize the vehicle that is located on a highway or public lands located within the territorial limits in which the officer or employee may act, if the vehicle is found upon a highway or the public lands and certain factors are known to exist regarding the vehicle or the registered owner.

This bill would expressly provide that the above-described authorization does not authorize a person, other than a person expressly authorized above, to immobilize a vehicle.

(4) 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 vehicle 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.

(5) 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) Existing law authorizes a member of the Department of the California Highway Patrol to impound a vehicle or combination of vehicles operated by a motor carrier of property, when that vehicle or combination of vehicles is found upon a highway, public lands, or an offstreet parking facility and that motor carrier is found to be in~~

violation of provisions requiring a motor carrier identification number and a motor carrier permit issued by the department.

~~This bill would extend that impoundment authority to a peace officer, as defined, employed by a local law enforcement agency and to certain employees of a local law enforcement agency, who are engaged in directing traffic or enforcing parking laws, to the impoundment of a tow truck.~~

~~(7)~~

(6) 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
21 which the person is to perform the duty, for review, a proposed

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

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

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

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

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

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

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

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

39 (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 22651.7 of the Vehicle Code is amended to
26 read:

27 22651.7. (a) In addition to, or as an alternative to, removal, a
28 peace officer, as defined in Chapter 4.5 (commencing with
29 Section 830) of Title 3 of Part 2 of the Penal Code, or a regularly
30 employed and salaried employee who is engaged in directing
31 traffic or enforcing parking laws and regulations, of a jurisdiction
32 in which a vehicle is located may immobilize the vehicle with a
33 device designed and manufactured for the immobilization of
34 vehicles, on a highway or any public lands located within the
35 territorial limits in which the officer or employee may act if the
36 vehicle is found upon a highway or public lands and it is known
37 to have been issued five or more notices of parking violations
38 that are delinquent because the owner or person in control of the
39 vehicle has not responded to the agency responsible for
40 processing notices of parking violation within 21 calendar days

1 of notice of citation issuance or citation issuance or 14 calendar
2 days of the mailing of a notice of delinquent parking violation, or
3 the registered owner of the vehicle is known to have been issued
4 five or more notices for failure to pay or failure to appear in court
5 for traffic violations for which no certificate has been issued by
6 the magistrate or clerk of the court hearing the case showing that
7 the case has been adjudicated or concerning which the registered
8 owner's record has not been cleared pursuant to Chapter 6
9 (commencing with Section 41500) of Division 17. The vehicle
10 may be immobilized until that person furnishes to the
11 immobilizing law enforcement agency all of the following:

12 (1) Evidence of his or her identity.

13 (2) An address within this state at which he or she can be
14 located.

15 (3) Satisfactory evidence that the full amount of parking
16 penalties has been deposited for all notices of parking violation
17 issued for the vehicle and any other vehicle registered to the
18 registered owner of the immobilized vehicle and that bail has
19 been deposited for all traffic violations of the registered owner
20 that have not been cleared. The requirements in this paragraph
21 shall be fully enforced by the immobilizing law enforcement
22 agency on and after the time that the Department of Motor
23 Vehicles is able to provide access to the necessary records. A
24 notice of parking violation issued to the vehicle shall be
25 accompanied by a warning that repeated violations may result in
26 the impounding or immobilization of the vehicle. In lieu of
27 furnishing satisfactory evidence that the full amount of parking
28 penalties or bail, or both, have been deposited that person may
29 demand to be taken without unnecessary delay before a
30 magistrate, for traffic offenses, or a hearing examiner, for
31 parking offenses, within the county in which the offenses
32 charged are alleged to have been committed and who has
33 jurisdiction of the offenses and is nearest or most accessible with
34 reference to the place where the vehicle is immobilized.
35 Evidence of current registration shall be produced after a vehicle
36 has been immobilized or, at the discretion of the immobilizing
37 law enforcement agency, a notice to appear for violation of
38 subdivision (a) of Section 4000 shall be issued to that person.

39 (b) A person, other than a person authorized under subdivision
40 (a), shall not immobilize a vehicle.

1 SEC. 3. Section 22658 of the Vehicle Code is amended to
2 read:

3 22658. (a) The owner or person in lawful possession of
4 private property, including an association of a common interest
5 development as defined in Section 1351 of the Civil Code, may
6 cause the removal of a vehicle parked on the property to a
7 storage facility that meets the requirements of subdivision (n)
8 under any of the following circumstances:

9 (1) There is displayed, in plain view at all entrances to the
10 property, a sign not less than 17 inches by 22 inches in size, with
11 lettering not less than one inch in height, prohibiting public
12 parking and indicating that vehicles will be removed at the
13 owner's expense, and containing the telephone number of the
14 local traffic law enforcement agency. *If the storage facility is*
15 *under contract with a tow truck company, the sign shall contain*
16 *the telephone number of the tow truck company.* The sign may
17 also indicate that a citation may also be issued for the violation.

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

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

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

28 (b) The tow truck operator removing the vehicle, if the
29 operator knows or is able to ascertain from the property owner,
30 person in lawful possession of the property, or the registration
31 records of the Department of Motor Vehicles the name and
32 address of the registered and legal owner of the vehicle, shall
33 immediately give, or cause to be given, notice in writing to the
34 registered and legal owner of the fact of the removal, the grounds
35 for the removal, and indicate the place to which the vehicle has
36 been removed. If the vehicle is stored in a storage facility, a copy
37 of the notice shall be given to the proprietor of the storage
38 facility. The notice provided for in this section shall include the
39 amount of mileage on the vehicle at the time of removal and the
40 time of the removal from the property. If the tow truck operator

1 does not know and is not able to ascertain the name of the owner
2 or for any other reason is unable to give the notice to the owner
3 as provided in this section, the tow truck operator shall comply
4 with the requirements of subdivision (c) of Section 22853
5 relating to notice in the same manner as applicable to an officer
6 removing a vehicle from private property.

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

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

15 (e) (1) An owner or person in lawful possession of private
16 property, or an association of a common interest development,
17 causing the removal of a vehicle parked on that property is liable
18 for double the storage or towing charges whenever there has been
19 a failure to comply with paragraph (1), (2), or (3) of subdivision
20 (a) or to state the grounds for the removal of the vehicle if
21 requested by the legal or registered owner of the vehicle as
22 required by subdivision (f).

23 (2) *A property owner or owner's agent or lessee who causes*
24 *the removal of a vehicle parked on that property pursuant to the*
25 *exemption set forth in subparagraph (A) of paragraph (1) of*
26 *subdivision (l) and fails to comply with that subdivision is guilty*
27 *of a misdemeanor, punishable by a fine of not more than two*
28 *thousand five hundred dollars (\$2,500), or by imprisonment in*
29 *the county jail for not more than three months, or by both that*
30 *fine and imprisonment, and is civilly liable to the owner of the*
31 *vehicle or his or her agent for four times the amount of the*
32 *towing and storage charges.*

33 (f) An owner or person in lawful possession of private
34 property, or an association of a common interest development,
35 causing the removal of a vehicle parked on that property shall
36 notify by telephone or, if impractical, by the most expeditious
37 means available, the local traffic law enforcement agency within
38 one hour after authorizing the tow. An owner or person in lawful
39 possession of private property, an association of a common
40 interest development, causing the removal of a vehicle parked on

1 that property, or the tow truck operator who removes the vehicle,
2 shall state the grounds for the removal of the vehicle if requested
3 by the legal or registered owner of that vehicle. A towing
4 company that removes a vehicle from private property in
5 compliance with subdivision (l) is not responsible in a situation
6 relating to the validity of the removal. A towing company that
7 removes the vehicle under this section shall be responsible for
8 the following:

9 (1) Damage to the vehicle in the transit and subsequent storage
10 of the vehicle.

11 (2) The removal of a vehicle other than the vehicle specified
12 by the owner or other person in lawful possession of the private
13 property.

14 (g) (1) (A) Possession of a vehicle under this section shall be
15 deemed to arise when a vehicle is removed from private property
16 and is in transit.

17 (B) Upon the request of the owner of the vehicle or that
18 owner's agent, the towing company or its driver shall
19 immediately and unconditionally release a vehicle that is not yet
20 removed from the private property and in transit.

21 (C) A person failing to comply with subparagraph (B) is guilty
22 of a misdemeanor.

23 (2) If a vehicle is released to a person in compliance with
24 subparagraph (B) of paragraph (1), the vehicle owner or
25 authorized agent shall immediately move that vehicle to a lawful
26 location.

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) A charge for towing or storage, or both, of a
39 vehicle under this section is excessive if the charge exceeds the
40 greater of the following:

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

10 (ii) That which would have been charged for that towing or
11 storage, or both, under the rate approved for that towing operator
12 by the California Highway Patrol for the jurisdiction in which the
13 private property is located and from which the vehicle was, or
14 was attempted to be, removed.

15 (B) A towing operator shall make available for inspection and
16 copying his or her rate approved by the California Highway
17 Patrol, if any, with in 24 hours of a request without a warrant to
18 law enforcement, the Attorney General, district attorney, or city
19 attorney.

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

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

38 (j) (1) A person who charges a vehicle owner a towing,
39 service, or storage charge at an excessive rate, as described in

1 subdivision (h) or (i), is civilly liable to the vehicle owner for
2 four times the amount charged.

3 (2) A person who knowingly charges a vehicle owner a
4 towing, service, or storage charge at an excessive rate, as
5 described in subdivision (h) or (i), or who fails to make available
6 his or her rate as required in subparagraph (B) of paragraph (1) of
7 subdivision (i), is guilty of a misdemeanor, punishable by a fine
8 of not more than two thousand five hundred dollars (\$2,500), or
9 by imprisonment in the county jail for not more than three
10 months, or by both that fine and imprisonment.

11 (k) (1) A person operating or in charge of a storage facility
12 where vehicles are stored pursuant to this section shall accept a
13 valid credit card, as defined in Section 6161 of the Government
14 Code, or cash for payment of towing and storage by a registered
15 owner or the owner's agent claiming the vehicle.

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

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

26 (4) A person described in paragraph (1) who violates
27 paragraph (1) or (2) is civilly liable to the registered owner of the
28 vehicle or the person who tendered the fees for four times the
29 amount of the towing and storage charges, ~~but not to exceed five~~
30 ~~hundred dollars (\$500).~~

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

35 (6) Credit charges for towing and storage services shall
36 comply with Section 1748.1 of the Civil Code. Law enforcement
37 agencies may include the costs of providing for payment by
38 credit when making agreements with towing companies as
39 described in subdivision (i).

1 (l) (1) (A) A towing company shall not remove or commence
 2 the removal of a vehicle from private property without first
 3 obtaining the written authorization from the property owner or
 4 lessee, including an association of a common interest
 5 development, or an employee or agent thereof, who shall be
 6 present at the time of removal and verify the alleged violation,
 7 except that presence and verification is not required if the person
 8 authorizing the tow is the property owner, or the owner’s agent
 9 who is not a tow operator, of a residential rental property of 15 or
 10 fewer units that does not have an onsite owner, owner’s agent or
 11 employee, and the tenant has verified the violation, requested the
 12 tow from that tenant’s assigned parking space, and provided a
 13 signed request or electronic mail, or has called and provides a
 14 signed request or electronic mail within 24 hours, to the property
 15 owner or owner’s agent, which the owner or agent shall provide
 16 to the towing company within 48 hours of authorizing the tow.
 17 The signed request or electronic mail shall contain the name and
 18 address of the tenant, and the date and time the tenant requested
 19 the tow. A towing company shall obtain within 48 hours of
 20 receiving the written authorization to tow a copy of a tenant
 21 request required pursuant to this subparagraph. For the purpose
 22 of this subparagraph, a person providing the written authorization
 23 who is required to be present on the private property at the time
 24 of the tow does not have to be physically present at the specified
 25 location of where the vehicle to be removed is located on the
 26 private property.

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

- 29 (i) The make, model, vehicle identification number, and
 30 license plate number of the removed vehicle.
- 31 (ii) The name, signature, job title, residential or business
 32 address and working telephone number of the person, described
 33 in subparagraph (A), authorizing the removal of the vehicle.
- 34 (iii) The grounds for the removal of the vehicle.
- 35 (iv) The time when the vehicle was first observed parked at
 36 the private property.
- 37 (v) The time that authorization to tow the vehicle was given.

38 (C) (i) When the vehicle owner or his or her agent claims the
 39 vehicle, the towing company prior to payment of a towing or

1 storage charge shall provide a photocopy of the written
2 authorization to the vehicle owner or the agent.

3 (ii) If the vehicle was towed from a residential property, the
4 towing company shall redact the information specified in clause
5 (ii) of subparagraph (B) in the photocopy of the written
6 authorization provided to the vehicle owner or the agent pursuant
7 to clause (i).

8 (iii) The towing company shall also provide to the vehicle
9 owner or the agent a separate notice that provides the telephone
10 number of the appropriate local law enforcement or prosecuting
11 agency by stating “If you believe that you have been wrongfully
12 towed, please contact the local law enforcement or prosecuting
13 agency at [insert appropriate telephone number].” The notice
14 shall be in English and in the most populous language, other than
15 English, that is spoken in the jurisdiction.

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

21 (E) (i) General authorization to remove or commence removal
22 of a vehicle at the towing company’s discretion shall not be
23 delegated to a towing company or its affiliates except in the case
24 of a vehicle unlawfully parked within 15 feet of a fire hydrant or
25 in a fire lane, or in a manner which interferes with an entrance to,
26 or exit from, the private property.

27 (ii) In those cases in which authorization is granted to a towing
28 company or its affiliate to undertake the removal or commence
29 the removal of a vehicle that is unlawfully parked within 15 feet
30 of a fire hydrant or in a fire lane, or that interferes with an
31 entrance to, or exit from, private property, the towing company
32 and the property owner, or owner’s agent, or person in lawful
33 possession of the private property shall have a written agreement
34 granting that general authorization.

35 (2) If a towing company removes a vehicle under a general
36 authorization described in subparagraph (E) of paragraph (1) and
37 that vehicle is unlawfully parked within 15 feet of a fire hydrant
38 or in a fire lane, or in a manner that interferes with an entrance
39 to, or exit from, the private property, the towing company shall
40 take, prior to the removal of that vehicle, a photograph of the

1 vehicle that clearly indicates that parking violation. Prior to
 2 accepting payment, the towing company shall keep one copy of
 3 the photograph taken pursuant to this paragraph, and shall
 4 present that photograph and provide, without charge, a
 5 photocopy to the owner or an agent of the owner, when that
 6 person claims the vehicle.

7 (3) A towing company shall maintain the original written
 8 authorization, or the general authorization described in
 9 subparagraph (E) of paragraph (1) and the photograph of the
 10 violation, required pursuant to this section, and any written
 11 requests from a tenant to the property owner or owner’s agent
 12 required by subparagraph (A) of paragraph (1), for a period of
 13 three years and shall make them available for inspection and
 14 copying within 24 hours of a request without a warrant to law
 15 enforcement, the Attorney General, district attorney, or city
 16 attorney.

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

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

25 (m) (1) A towing company that removes a vehicle from
 26 private property under this section shall notify the local law
 27 enforcement agency of that tow within ~~60~~ 15 minutes after the
 28 vehicle is removed from the private property and is in transit.

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

30 (2) *A towing company that violates paragraph (1) is civilly*
 31 *liable to the registered owner of the vehicle or the person who*
 32 *tendered the fees for three times the amount of towing and*
 33 *storage charges.*

34 (3) *In addition to being subject to the imposition of a civil*
 35 *penalty under paragraph (2), it is a misdemeanor to violate*
 36 *paragraph (1) if the notification required under paragraph (1) is*
 37 *provided more than 60 minutes after the vehicle is removed from*
 38 *the private property and is in transit or the notification is never*
 39 *provided.*

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

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

6 (B) The 10-mile radius requirement of subparagraph (A) does
7 not apply if a towing company has prior general written approval
8 from the law enforcement agency that exercises primary
9 jurisdiction in the city in which is located the private property
10 from which the vehicle was removed, or if the private property is
11 not located within a city, then the law enforcement agency that
12 exercises primary jurisdiction in the county in which is located
13 the private property.

14 (2) (A) Remains open during normal business hours and
15 releases vehicles after normal business hours.

16 (B) A gate fee may be charged for releasing a vehicle after
17 normal business hours, weekends, and state holidays. However,
18 the maximum hourly charge for releasing a vehicle after normal
19 business hours shall be one-half of the hourly tow rate charged
20 for initially towing the vehicle, or less.

21 (C) Notwithstanding any other provision of law and for
22 purposes of this paragraph, “normal business hours” are Monday
23 to Friday, inclusive, from 8 a.m. to 5 p.m., inclusive, except state
24 holidays.

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

27 (o) (1) It is the intent of the Legislature in the adoption of
28 subdivision (k) to assist vehicle owners or their agents by, among
29 other things, allowing payment by credit cards for towing and
30 storage services, thereby expediting the recovery of towed
31 vehicles and concurrently promoting the safety and welfare of the
32 public.

33 (2) It is the intent of the Legislature in the adoption of
34 subdivision (l) to further the safety of the general public by
35 ensuring that a private property owner or lessee has provided his
36 or her authorization for the removal of a vehicle from his or her
37 property, thereby promoting the safety of those persons involved
38 in ordering the removal of the vehicle as well as those persons
39 removing, towing, and storing the vehicle.

1 (3) It is the intent of the Legislature in the adoption of
2 subdivision (g) to promote the safety of the general public by
3 requiring towing companies to unconditionally release a vehicle
4 that is not lawfully in their possession, thereby avoiding the
5 likelihood of dangerous and violent confrontation and physical
6 injury to vehicle owners and towing operators, the stranding of
7 vehicle owners and their passengers at a dangerous time and
8 location, and impeding expedited vehicle recovery, without
9 wasting law enforcement's limited resources.

10 (p) The remedies, sanctions, restrictions, and procedures
11 provided in this section are not exclusive and are in addition to
12 other remedies, sanctions, restrictions, or procedures that may be
13 provided in other provisions of law, including, but not limited to,
14 those that are provided in Sections 12110 and 34660.

15 SEC. 4. Section 22658.2 of the Vehicle Code is repealed.

16 SEC. 5. Section 22953 of the Vehicle Code is amended to
17 read:

18 22953. (a) An owner or person in lawful possession of
19 private property that is held open to the public, or a discernible
20 portion thereof, for parking of vehicles at no fee, or an employee
21 or agent thereof, shall not tow or remove, or cause the towing or
22 removal, of a vehicle within one hour of the vehicle being
23 parked.

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

29 (c) Subdivision (a) does not apply to property designated for
30 parking at residential property, or to property designated for
31 parking at a hotel or motel where the parking stalls or spaces are
32 clearly marked for a specific room.

33 (d) It is the intent of the Legislature in the adoption of
34 subdivision (a) to avoid causing the unnecessary stranding of
35 motorists and placing them in dangerous situations, when traffic
36 citations and other civil remedies are available, thereby
37 promoting the safety of the general public.

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

1 ~~SEC. 6. Section 34660 of the Vehicle Code is amended to~~
2 ~~read:~~

3 ~~34660. (a) A motor carrier of property, after its motor carrier~~
4 ~~permit has been suspended by the department, who continues to~~
5 ~~operate as a motor carrier, either independently or for another~~
6 ~~motor carrier, is guilty of a misdemeanor, punishable by a fine of~~
7 ~~not more than two thousand five hundred dollars (\$2,500), or by~~
8 ~~imprisonment in the county jail for not more than three months,~~
9 ~~or by both that fine and imprisonment.~~

10 ~~(b) Each violation of this section is a separate and distinct~~
11 ~~offense, and, in the case of a continuing violation, each day's~~
12 ~~continuance of operation as a carrier in violation of this section is~~
13 ~~a separate and distinct offense.~~

14 ~~(c) Upon finding that a motor carrier of property is willfully~~
15 ~~violating this section after being advised that it is not operating in~~
16 ~~compliance with the laws of this state, the court may issue an~~
17 ~~injunction to stop the carrier's continued operation.~~

18 ~~(d) (1) A member of the Department of the California~~
19 ~~Highway Patrol may impound a vehicle or combination of~~
20 ~~vehicles operated by a motor carrier of property, including, but~~
21 ~~not limited to, a tow truck, when that vehicle or combination of~~
22 ~~vehicles is found upon a highway, any public lands, or an~~
23 ~~offstreet parking facility and the motor carrier is found to be in~~
24 ~~violation of this section or of subdivision (a) of Section 34620.~~

25 ~~(2) A peace officer, as defined in Chapter 4.5 (commencing~~
26 ~~with Section 830) of Title 3 of Part 2 of the Penal Code~~
27 ~~employed by a local law enforcement agency or a regularly~~
28 ~~employed and salaried employee of a local law enforcement~~
29 ~~agency who is engaged in directing traffic or enforcing parking~~
30 ~~laws and regulations of a local authority may impound a tow~~
31 ~~truck under the same conditions and circumstances as any motor~~
32 ~~carrier of property may be impounded by a member of the~~
33 ~~Department of the California Highway Patrol under paragraph~~
34 ~~(1).~~

35 ~~(3) For purposes of paragraph (1) or (2), the vehicle shall be~~
36 ~~released to the registered owner or authorized agent only after the~~
37 ~~registered owner or authorized agent furnishes the Department of~~
38 ~~the California Highway Patrol or local law enforcement agency~~
39 ~~with proof of current registration, a currently valid driver's~~
40 ~~license of the appropriate class to operate the vehicle or~~

1 combination of vehicles, and proof of compliance with this
2 division.

3 ~~(4) The registered owner or authorized agent is responsible for~~
4 ~~all towing and storage charges related to the impoundment.~~

5 ~~SEC. 7.~~

6 SEC. 6. Section 40000.15 of the Vehicle Code is amended to
7 read:

8 40000.15. A violation of any of the following provisions shall
9 constitute a misdemeanor, and not an infraction:

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

12 Sections 23103 and 23104, relating to reckless driving.

13 Section 23109, relating to speed contests or exhibitions.

14 Subdivision (a) of Section 23110, relating to throwing at
15 vehicles.

16 Section 23152, relating to driving under the influence.

17 Subdivision (b) of Section 23222, relating to possession of
18 marijuana.

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

22 Section 23253, relating to directions on toll highways or
23 vehicular crossings.

24 Section 23332, relating to trespassing.

25 Section 24002.5, relating to unlawful operation of a farm
26 vehicle.

27 Section 24011.3, relating to vehicle bumper strength notices.

28 Section 27150.1, relating to sale of exhaust systems.

29 Section 27362, relating to child passenger seat restraints.

30 Section 28050, relating to true mileage driven.

31 Section 28050.5, relating to nonfunctional odometers.

32 Section 28051, relating to resetting odometers.

33 Section 28051.5, relating to devices to reset odometers.

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

36 ~~SEC. 8.~~

37 SEC. 7. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the
2 penalty for a crime or infraction, within the meaning of Section
3 17556 of the Government Code, or changes the definition of a
4 crime within the meaning of Section 6 of Article XIII B of the
5 California Constitution.

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