

AMENDED IN ASSEMBLY JUNE 28, 2006

**SENATE BILL**

**No. 1404**

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**Introduced by Senator Machado**

February 22, 2006

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An act to amend ~~Section 40202 of, and to add Section 40216 to,~~ repeal, and add Section 22507.6 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1404, as amended, Machado. Vehicles: parking violations: street cleaning.

*Existing law allows a city or county, by ordinance or resolution, to prohibit or restrict the parking or standing of vehicles on designated streets or highways, or portions thereof, for the purpose of street sweeping, provided that the ordinance or resolution does not go into effect until a sign is posted setting forth the day or days and hours parking is prohibited or restricted.*

*This bill would specify that an ordinance or resolution adopted pursuant to the above may include an ordinance or resolution for street cleaning purposes. This bill would also provide that it does not constitute a violation of the ordinance or resolution if a person parks on a designated street or highway on the day or during the posted restricted or prohibited hours and during that posted period street cleaning or sweeping does not, in fact, occur. The bill would provide that these provisions become operative on January 1, 2008.*

~~(1) Existing law requires, if a vehicle is unattended during a parking violation, the peace officer or person authorized to enforce parking laws and regulations to securely attach to the vehicle a notice of parking violation setting forth specified information, including the~~

violation, the date and time of the violation, and a statement printed on the notice indicating that the date of payment is required to be made not later than 21 calendar days from the date of citation issuance.

~~This bill would require the notice of parking violation also to include a statement that a violation of an ordinance for street cleaning will be canceled if contested and the city in which the violation occurred cannot prove that the street upon which the violation occurred was cleaned on the date of the violation. The bill would require a parking violation of an ordinance for street cleaning to be canceled if contested and the city in which the violation occurred cannot prove that the street upon which the violation occurred was cleaned on the date of the violation. The bill would require, upon request by a person for an initial review of a notice of parking violation by the issuing agency, the issuing agency to cancel the notice if the notice is for a violation of an ordinance for street cleaning, unless the issuing agency can verify that the street upon which the vehicle was found to be in violation of a street cleaning ordinance was cleaned on the day of the violation. By imposing new duties on a local agency, the bill would impose a state-mandated local program.~~

~~The bill would contain legislative findings and declarations that the regulation of parking violations of an ordinance for street cleaning as specified is in need of uniform statewide regulation and constitutes a matter of statewide concern that is required to be governed solely by specified provisions of the Vehicle Code.~~

~~(2) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions:~~

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

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

1     SECTION 1. Section 22507.6 of the Vehicle Code is amended  
2     to read:

1 22507.6. ~~Local authorities~~—(a) A local authority may, by  
2 ordinance or resolution, prohibit or restrict the parking or  
3 standing of vehicles on designated streets or highways, or  
4 portions thereof, for the purpose of street sweeping. ~~No~~

5 (b) An ordinance or resolution adopted pursuant to subdivision  
6 (a) relating to the parking or standing of commercial vehicles in  
7 a residential district shall not be effective with respect to ~~any~~-a  
8 commercial vehicle making pickups or deliveries of goods,  
9 wares, or merchandise from, or to ~~any~~-a building or structure  
10 located on the restricted street or highway, or for the purpose of  
11 delivering materials ~~to be~~ used in the repair, alteration,  
12 remodeling, or reconstruction of ~~any~~-a building or structure for  
13 which a building permit has previously been obtained. ~~No such~~

14 (c) An ordinance or resolution adopted pursuant to subdivision  
15 (a) shall not be effective until the street or highway, or portion  
16 thereof, has been sign-posted in accordance with the uniform  
17 standards and specifications of the Department of Transportation,  
18 or ~~the local authorities have~~ authority has caused to be posted in  
19 a conspicuous place at each entrance to the street a notice not less  
20 than 17 inches by 22 inches in size, with lettering not less than  
21 one inch in height, setting forth the day or days and hours  
22 parking is prohibited or restricted. ~~As~~

23 (d) As used in ~~this section~~ subdivision (c), “entrance” means  
24 the intersection of ~~any~~ a street or streets comprising an area of  
25 restricted parking for street-sweeping purposes on the same day  
26 or days and hours with another street or highway that is not  
27 subject to ~~such a~~ that parking restriction, or is subject to parking  
28 restrictions on different days and hours.

29 (e) This section shall remain in effect only until January 1,  
30 2008, and as of that date is repealed, unless a later enacted  
31 statute, that is enacted before January 1, 2008, deletes or extends  
32 that date.

33 SEC. 2. Section 22507.6 is added to the Vehicle Code, to  
34 read:

35 22507.6. (a) A local authority may, by ordinance or  
36 resolution, prohibit or restrict the parking or standing of vehicles  
37 on designated streets or highways, or portions thereof, for the  
38 purpose of street cleaning or sweeping.

39 (b) An ordinance or resolution adopted pursuant to  
40 subdivision (a) relating to the parking or standing of commercial

1 vehicles in a residential district shall not be effective with respect  
 2 to a commercial vehicle making pickups or deliveries of goods,  
 3 wares, or merchandise from, or to a building or structure located  
 4 on the restricted street or highway, or for the purpose of  
 5 delivering materials used in the repair, alteration, remodeling, or  
 6 reconstruction of a building or structure for which a building  
 7 permit has previously been obtained.

8 (c) (1) An ordinance or resolution adopted pursuant to  
 9 subdivision (a) shall not be effective until the street or highway,  
 10 or portion thereof, has been sign-posted in accordance with the  
 11 uniform standards and specifications of the Department of  
 12 Transportation, or the local authority has caused to be posted in  
 13 a conspicuous place at each entrance to the street a notice not  
 14 less than 17 inches by 22 inches in size, with lettering not less  
 15 than one inch in height, setting forth the day or days and hours  
 16 parking is prohibited or restricted.

17 (2) As used in this paragraph (1), "entrance" means the  
 18 intersection of a street or streets comprising an area of restricted  
 19 parking for street cleaning or sweeping purposes on the same  
 20 day or days and hours with another street or highway that is not  
 21 subject to that parking restriction, or is subject to parking  
 22 restrictions on different days and hours.

23 (d) A person is not in violation of an ordinance or resolution  
 24 adapted under this section if that person parks a vehicle on a  
 25 designated street or highway on the day or during hours that are  
 26 identified in the posting under subdivision (c) and during that  
 27 posted period street cleaning or sweeping does not, in fact,  
 28 occur.

29 (e) This section shall become operative on January 1, 2008.

30 ~~SECTION 1. Section 40202 of the Vehicle Code is amended~~  
 31 ~~to read:~~

32 ~~40202. (a) If a vehicle is unattended during the time of the~~  
 33 ~~violation, the peace officer or person authorized to enforce~~  
 34 ~~parking laws and regulations shall securely attach to the vehicle a~~  
 35 ~~notice of parking violation setting forth the violation, including~~  
 36 ~~reference to the section of this code or of the Public Resources~~  
 37 ~~Code, the local ordinance, or the federal statute or regulation~~  
 38 ~~violated; the date; the approximate time of the violation; the~~  
 39 ~~location where the violation occurred; a statement printed on the~~  
 40 ~~notice indicating that the date of payment is required to be made~~

1 not later than 21 calendar days from the date of citation issuance;  
2 a statement printed on the notice that a violation of an ordinance  
3 for street cleaning will be canceled if contested and the city in  
4 which the violation occurred cannot prove that the street upon  
5 which the violation occurred was cleaned on the date of the  
6 violation; and the procedure for the registered owner, lessee, or  
7 rentee to deposit the parking penalty or, pursuant to Section  
8 40215, contest the citation. The notice of parking violation shall  
9 also set forth the vehicle license number and registration  
10 expiration date if they are visible, the last four digits of the  
11 vehicle identification number, if that number is readable through  
12 the windshield, the color of the vehicle, and, if possible, the make  
13 of the vehicle. The notice of parking violation, or a copy of the  
14 notice of parking violation, shall be considered a record kept in  
15 the ordinary course of business of the issuing agency and the  
16 processing agency and shall be prima facie evidence of the facts  
17 contained therein.

18 (b) The notice of parking violation shall be served by attaching  
19 it to the vehicle either under the windshield wiper or in another  
20 conspicuous place upon the vehicle so as to be easily observed by  
21 the person in charge of the vehicle upon the return of that person.

22 (c) Once the issuing officer has prepared the notice of parking  
23 violation and has attached it to the vehicle as provided in  
24 subdivisions (a) and (b), the officer shall file the notice with the  
25 processing agency. A person, including the issuing officer and a  
26 member of the officer's department or agency, or a peace officer  
27 who alters, conceals, modifies, nullifies, or destroys, or causes to  
28 be altered, concealed, modified, nullified, or destroyed the face  
29 of the remaining original or a copy of a citation that was retained  
30 by the officer, for any reason, before it is filed with the  
31 processing agency or with a person authorized to receive the  
32 deposit of the parking penalty, is guilty of a misdemeanor.

33 (d) If, during the issuance of a notice of parking violation,  
34 without regard to whether the vehicle was initially attended or  
35 unattended, the vehicle is driven away prior to attaching the  
36 notice to the vehicle, the issuing officer shall file the notice with  
37 the processing agency. The processing agency shall mail, within  
38 15 calendar days of issuance of the notice of parking violation, a  
39 copy of the notice of parking violation or transmit an electronic  
40 facsimile of the notice to the registered owner.

1 ~~(e) If, within 21 days after the notice of parking violation is~~  
 2 ~~attached to the vehicle, the issuing officer or the issuing agency~~  
 3 ~~determines that, in the interest of justice, the notice of parking~~  
 4 ~~violation should be canceled, the issuing agency, pursuant to~~  
 5 ~~subdivision (a) of Section 40215, shall cancel the notice of~~  
 6 ~~parking violation or, if the issuing agency has contracted with a~~  
 7 ~~processing agency, shall notify the processing agency to cancel~~  
 8 ~~the notice of parking violation pursuant to subdivision (a) of~~  
 9 ~~Section 40215. The reason for the cancellation shall be set forth~~  
 10 ~~in writing.~~

11 ~~If, after a copy of the notice of parking violation is attached to~~  
 12 ~~the vehicle, the issuing officer determines that there is incorrect~~  
 13 ~~data on the notice, including, but not limited to, the date or time,~~  
 14 ~~the issuing officer may indicate in writing, on a form attached to~~  
 15 ~~the original notice, the necessary correction to allow for the~~  
 16 ~~timely entry of the notice on the processing agency's data~~  
 17 ~~system. A copy of the correction shall be mailed to the registered~~  
 18 ~~owner of the vehicle.~~

19 ~~(f) Under no circumstances shall a personal relationship with~~  
 20 ~~an officer, public official, or law enforcement agency be grounds~~  
 21 ~~for cancellation.~~

22 ~~SEC. 2. Section 40216 is added to the Vehicle Code, to read:~~

23 ~~40216. (a) Notwithstanding any other provision of law, if a~~  
 24 ~~violation of an ordinance for street cleaning is contested, and the~~  
 25 ~~city in which the violation occurred cannot prove that the street~~  
 26 ~~upon which the violation occurred was cleaned on the date of the~~  
 27 ~~violation, the notice of parking violation shall be canceled.~~

28 ~~(b) Notwithstanding Section 40215, upon request by a person~~  
 29 ~~for an initial review of a notice of parking violation by the~~  
 30 ~~issuing agency, the issuing agency shall cancel the notice if the~~  
 31 ~~notice is for a violation of an ordinance for street cleaning, unless~~  
 32 ~~the issuing agency can verify that the street upon which the~~  
 33 ~~vehicle was found to be in violation of a street cleaning~~  
 34 ~~ordinance was cleaned on the day of the violation. Acceptable~~  
 35 ~~verification includes contractor records, street cleaning~~  
 36 ~~equipment records, or a statement from a person employed or~~  
 37 ~~contracted by the issuing agency.~~

38 ~~(c) The Legislature finds and declares that the regulation of~~  
 39 ~~parking violations of an ordinance for street cleaning provided in~~  
 40 ~~this chapter is in need of uniform statewide regulation and~~

1 ~~constitutes a matter of statewide concern that shall be governed~~  
2 ~~solely by this chapter.~~

3 ~~SEC. 3. If the Commission on State Mandates determines that~~  
4 ~~this act contains costs mandated by the state, reimbursement to~~  
5 ~~local agencies and school districts for those costs shall be made~~  
6 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
7 ~~4 of Title 2 of the Government Code.~~

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