

AMENDED IN ASSEMBLY JANUARY 6, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 335**

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**Introduced by Assembly Member Brown**

February 13, 2013

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An act to amend Section 14602.6 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 335, as amended, Brown. Vehicles: impoundment.

Existing law authorizes a peace officer who determines that a person was driving a vehicle while his or her driving privilege was suspended or revoked, driving in violation of a driver's license restriction requiring that person to operate a vehicle that is equipped with a functioning, certified ignition interlock device, or driving a vehicle without ever having been issued a driver's license, to either immediately arrest that person and cause the removal and seizure of that vehicle or, if the vehicle is involved in a traffic collision, cause the removal and seizure of the vehicle without the necessity of arresting the person. *Existing law requires a 30-day impoundment period for seized vehicles, subject to exceptions allowing earlier release.*

~~This bill would prohibit a peace officer from impounding the vehicle if the vehicle could be or is legally parked at a location near the traffic stop, if control of the vehicle is relinquished to a licensed driver who is present and authorized by the driver to take the vehicle, or if a licensed driver retrieves the vehicle within a reasonable time. The bill would also require the peace officer to inform the driver that the vehicle will not be towed and impounded if the vehicle could be or is legally parked at a location near the traffic stop, if control of the vehicle is relinquished~~

to a licensed driver who is present and authorized by the driver to take the vehicle, or if a licensed driver can retrieve the vehicle within a reasonable amount of time.

By imposing additional duties on local law enforcement entities, this bill would impose a state-mandated local program.

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.

*This bill would instead require a seized vehicle to be impounded for 15 days, subject to exceptions allowing earlier release. The bill would make additional conforming changes.*

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 14602.6 of the Vehicle Code is amended  
2 to read:

3 14602.6. (a) (1) ~~Except as provided in paragraph (3), if~~  
4 *Whenever* a peace officer determines that a person was driving a  
5 vehicle while his or her driving privilege was suspended or  
6 revoked, driving a vehicle while his or her driving privilege is  
7 restricted pursuant to Section 13352 or 23575 and the vehicle is  
8 not equipped with a functioning, certified interlock device, or  
9 driving a vehicle without ever having been issued a driver's license,  
10 the peace officer may either immediately arrest that person and  
11 cause the removal and seizure of that vehicle or, if the vehicle is  
12 involved in a traffic collision, cause the removal and seizure of  
13 the vehicle without the necessity of arresting the person in  
14 accordance with Chapter 10 (commencing with Section 22650) of  
15 Division 11. ~~A vehicle so impounded that is removed and seized~~  
16 *under this paragraph* shall be impounded for ~~30~~ 15 days.

17 (2) The impounding agency, within two working days of  
18 impoundment, shall send a notice by certified mail, return receipt  
19 requested, to the legal owner of the vehicle, at the address obtained  
20 from the department, informing the owner that the vehicle has

1 been impounded. Failure to notify the legal owner within two  
2 working days shall prohibit the impounding agency from charging  
3 for more than ~~15~~ 7 days' impoundment when the legal owner  
4 redeems the impounded vehicle. The impounding agency shall  
5 maintain a published telephone number that provides information  
6 24 hours a day regarding the impoundment of vehicles and the  
7 rights of a registered owner to request a hearing. The law  
8 enforcement agency shall be open to issue a release to the registered  
9 owner or legal owner, or the agent of either, whenever the agency  
10 is open to serve the public for regular, nonemergency business.

11 ~~(3) A peace officer shall not impound a vehicle subject to~~  
12 ~~impoundment, pursuant to paragraph (1), if the vehicle could be~~  
13 ~~or is legally parked at a location near the traffic stop, if control of~~  
14 ~~the vehicle is relinquished to a licensed driver who is present and~~  
15 ~~authorized by the driver to take the vehicle, or if a licensed driver~~  
16 ~~retrieves the vehicle within a reasonable amount of time. The peace~~  
17 ~~officer shall inform the driver that the vehicle will not be towed~~  
18 ~~and impounded if the vehicle could be or is legally parked at a~~  
19 ~~location near the traffic stop, if control of the vehicle is relinquished~~  
20 ~~to a licensed driver who is present and authorized by the driver to~~  
21 ~~take the vehicle, or if a licensed driver can retrieve the vehicle~~  
22 ~~within a reasonable amount of time.~~

23 (b) The registered and legal owner of a vehicle that is removed  
24 and seized under paragraph (1) of subdivision (a) or their agents  
25 shall be provided the opportunity for a storage hearing to determine  
26 the validity of, or consider any mitigating circumstances attendant  
27 to, the storage, in accordance with Section 22852.

28 (c) Any period in which a vehicle is subjected to storage under  
29 this section shall be included as part of the period of impoundment  
30 ordered by the court under subdivision (a) of Section 14602.5.

31 (d) (1) An impounding agency shall release a vehicle to the  
32 registered owner or his or her agent prior to the end of ~~30~~ 15 days'  
33 impoundment under any of the following circumstances:

34 (A) If the vehicle is a stolen vehicle.

35 (B) If the vehicle is subject to bailment and is driven by an  
36 unlicensed employee of a business establishment, including a  
37 parking service or repair garage.

38 (C) If the license of the driver was suspended or revoked for an  
39 offense other than those included in Article 2 (commencing with

1 Section 13200) of Chapter 2 of Division 6 or Article 3  
2 (commencing with Section 13350) of Chapter 2 of Division 6.

3 (D) If the vehicle was seized under this section for an offense  
4 that does not authorize the seizure of the vehicle.

5 (E) If the driver reinstates his or her driver’s license or acquires  
6 a driver’s license and proper insurance.

7 (2) A vehicle shall not be released pursuant to this subdivision  
8 without presentation of the registered owner’s or agent’s currently  
9 valid driver’s license to operate the vehicle and proof of current  
10 vehicle registration, or upon order of a court.

11 (e) The registered owner or his or her agent is responsible for  
12 all towing and storage charges related to the impoundment, and  
13 any administrative charges authorized under Section 22850.5.

14 (f) A vehicle removed and seized under paragraph (1) of  
15 subdivision (a) shall be released to the legal owner of the vehicle  
16 or the legal owner’s agent prior to the end of ~~30~~ 15 days’  
17 impoundment if all of the following conditions are met:

18 (1) The legal owner is a motor vehicle dealer, bank, credit union,  
19 acceptance corporation, or other licensed financial institution  
20 legally operating in this state or is another person, not the registered  
21 owner, holding a security interest in the vehicle.

22 (2) (A) The legal owner or the legal owner’s agent pays all  
23 towing and storage fees related to the seizure of the vehicle. A lien  
24 sale processing fee shall not be charged to the legal owner who  
25 redeems the vehicle prior to the ~~15th~~ 7th day of impoundment.  
26 Neither the impounding authority nor any person having possession  
27 of the vehicle shall collect from the legal owner of the type  
28 specified in paragraph (1), or the legal owner’s agent any  
29 administrative charges imposed pursuant to Section 22850.5 unless  
30 the legal owner voluntarily requested a poststorage hearing.

31 (B) A person operating or in charge of a storage facility where  
32 vehicles are stored pursuant to this section shall accept a valid  
33 bank credit card or cash for payment of towing, storage, and related  
34 fees by a legal or registered owner or the owner’s agent claiming  
35 the vehicle. A credit card shall be in the name of the person  
36 presenting the card. “Credit card” means “credit card” as defined  
37 in subdivision (a) of Section 1747.02 of the Civil Code, except,  
38 for the purposes of this section, credit card does not include a credit  
39 card issued by a retail seller.

1 (C) A person operating or in charge of a storage facility  
2 described in subparagraph (B) who violates subparagraph (B) shall  
3 be civilly liable to the owner of the vehicle or to the person who  
4 tendered the fees for four times the amount of the towing, storage,  
5 and related fees, but not to exceed five hundred dollars (\$500).

6 (D) A person operating or in charge of a storage facility  
7 described in subparagraph (B) shall have sufficient funds on the  
8 premises of the primary storage facility during normal business  
9 hours to accommodate, and make change in, a reasonable monetary  
10 transaction.

11 (E) Credit charges for towing and storage services shall comply  
12 with Section 1748.1 of the Civil Code. Law enforcement agencies  
13 may include the costs of providing for payment by credit when  
14 making agreements with towing companies on rates.

15 (3) The legal owner or the legal owner's agent presents a copy  
16 of the assignment, as defined in subdivision (b) of Section 7500.1  
17 of the Business and Professions Code; a release from the one  
18 responsible governmental agency, only if required by the agency;  
19 a government-issued photographic identification card; and any  
20 one of the following, as determined by the legal owner or the legal  
21 owner's agent: a certificate of repossession for the vehicle, a  
22 security agreement for the vehicle, or title, whether paper or  
23 electronic, showing proof of legal ownership for the vehicle. Any  
24 documents presented may be originals, photocopies, or facsimile  
25 copies, or may be transmitted electronically. The law enforcement  
26 agency, impounding agency, or any other governmental agency,  
27 or any person acting on behalf of those agencies, shall not require  
28 any documents to be notarized. The law enforcement agency,  
29 impounding agency, or any person acting on behalf of those  
30 agencies may require the agent of the legal owner to produce a  
31 photocopy or facsimile copy of its repossession agency license or  
32 registration issued pursuant to Chapter 11 (commencing with  
33 Section 7500) of Division 3 of the Business and Professions Code,  
34 or to demonstrate, to the satisfaction of the law enforcement  
35 agency, impounding agency, or any person acting on behalf of  
36 those agencies, that the agent is exempt from licensure pursuant  
37 to Section 7500.2 or 7500.3 of the Business and Professions Code.

38 The administrative costs authorized under subdivision (a) of  
39 Section 22850.5 shall not be charged to the legal owner of the type  
40 specified in paragraph (1), who redeems the vehicle unless the

1 legal owner voluntarily requests a poststorage hearing. A city,  
2 county, city and county, or state agency shall not require a legal  
3 owner or a legal owner's agent to request a poststorage hearing as  
4 a requirement for release of the vehicle to the legal owner or the  
5 legal owner's agent. The law enforcement agency, impounding  
6 agency, or other governmental agency, or any person acting on  
7 behalf of those agencies, shall not require any documents other  
8 than those specified in this paragraph. The law enforcement agency,  
9 impounding agency, or other governmental agency, or any person  
10 acting on behalf of those agencies, shall not require any documents  
11 to be notarized. The legal owner or the legal owner's agent shall  
12 be given a copy of any documents he or she is required to sign,  
13 except for a vehicle evidentiary hold logbook. The law enforcement  
14 agency, impounding agency, or any person acting on behalf of  
15 those agencies, or any person in possession of the vehicle, may  
16 photocopy and retain the copies of any documents presented by  
17 the legal owner or legal owner's agent.

18 (4) A failure by a storage facility to comply with any applicable  
19 conditions set forth in this subdivision shall not affect the right of  
20 the legal owner or the legal owner's agent to retrieve the vehicle,  
21 provided all conditions required of the legal owner or legal owner's  
22 agent under this subdivision are satisfied.

23 (g) (1) A legal owner or the legal owner's agent that obtains  
24 release of the vehicle pursuant to subdivision (f) shall not release  
25 the vehicle to the registered owner of the vehicle, or the person  
26 who was listed as the registered owner when the vehicle was  
27 impounded, or any agents of the registered owner, unless the  
28 registered owner is a rental car agency, until after the termination  
29 of the ~~30-day~~ 15-day impoundment period.

30 (2) The legal owner or the legal owner's agent shall not  
31 relinquish the vehicle to the registered owner or the person who  
32 was listed as the registered owner when the vehicle was impounded  
33 until the registered owner or that owner's agent presents his or her  
34 valid driver's license or valid temporary driver's license to the  
35 legal owner or the legal owner's agent. The legal owner or the  
36 legal owner's agent or the person in possession of the vehicle shall  
37 make every reasonable effort to ensure that the license presented  
38 is valid and possession of the vehicle will not be given to the driver  
39 who was involved in the original impoundment proceeding until  
40 the expiration of the impoundment period.

1 (3) Prior to relinquishing the vehicle, the legal owner may  
2 require the registered owner to pay all towing and storage charges  
3 related to the impoundment and any administrative charges  
4 authorized under Section 22850.5 that were incurred by the legal  
5 owner in connection with obtaining custody of the vehicle.

6 (4) Any legal owner who knowingly releases or causes the  
7 release of a vehicle to a registered owner or the person in  
8 possession of the vehicle at the time of the impoundment or any  
9 agent of the registered owner in violation of this subdivision shall  
10 be guilty of a misdemeanor and subject to a fine in the amount of  
11 two thousand dollars (\$2,000) in addition to any other penalties  
12 established by law.

13 (5) The legal owner, registered owner, or person in possession  
14 of the vehicle shall not change or attempt to change the name of  
15 the legal owner or the registered owner on the records of the  
16 department until the vehicle is released from the impoundment.

17 (h) (1) A vehicle removed and seized under paragraph (1) of  
18 subdivision (a) shall be released to a rental car agency prior to the  
19 end of ~~30~~ 15 days' impoundment if the agency is either the legal  
20 owner or registered owner of the vehicle and the agency pays all  
21 towing and storage fees related to the seizure of the vehicle.

22 (2) The owner of a rental vehicle that was seized under this  
23 section may continue to rent the vehicle upon recovery of the  
24 vehicle. However, the rental car agency may not rent another  
25 vehicle to the driver of the vehicle that was seized until 30 days  
26 after the date that the vehicle was seized.

27 (3) The rental car agency may require the person to whom the  
28 vehicle was rented to pay all towing and storage charges related  
29 to the impoundment and any administrative charges authorized  
30 under Section 22850.5 that were incurred by the rental car agency  
31 in connection with obtaining custody of the vehicle.

32 (i) Notwithstanding any other provision of this section, the  
33 registered owner and not the legal owner shall remain responsible  
34 for any towing and storage charges related to the impoundment,  
35 any administrative charges authorized under Section 22850.5, and  
36 any parking fines, penalties, and administrative fees incurred by  
37 the registered owner.

38 (j) The law enforcement agency and the impounding agency,  
39 including any storage facility acting on behalf of the law  
40 enforcement agency or impounding agency, shall comply with this

1 section and shall not be liable to the registered owner for the  
2 improper release of the vehicle to the legal owner or the legal  
3 owner's agent provided the release complies with the provisions  
4 of this section. The legal owner shall indemnify and hold harmless  
5 a storage facility from any claims arising out of the release of the  
6 vehicle to the legal owner or the legal owner's agent and from any  
7 damage to the vehicle after its release, including the reasonable  
8 costs associated with defending ~~any such~~ *those* claims. A law  
9 enforcement agency shall not refuse to issue a release to a legal  
10 owner or the agent of a legal owner on the grounds that it  
11 previously issued a release.

12 ~~SEC. 2. If the Commission on State Mandates determines that~~  
13 ~~this act contains costs mandated by the state, reimbursement to~~  
14 ~~local agencies and school districts for those costs shall be made~~  
15 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
16 ~~4 of Title 2 of the Government Code.~~

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