

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1151

Introduced by Assembly Member Santiago

February 27, 2015

An act to amend ~~Section 22659~~ *Sections 40204 and 40215* of the Vehicle Code, relating to ~~vehicles~~: *parking violations*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1151, as amended, Santiago. ~~Vehicles: removal.~~ *Parking violations: penalties.*

Existing law establishes a process by which a person who has received a notice of a parking violation or a notice of a delinquent parking violation may contest the notice. Existing law provides for an administrative hearing, conducted by an examiner, as specified, as part of that process. If after the hearing the examiner determines that the person committed the violation, existing law authorizes the examiner to allow the person to pay the penalty for the violation in installments, and authorizes the agency that issued the notice to allow deferred payment of the penalty or payment of the penalty in installments if the person provides satisfactory evidence of an inability to pay the penalty in full.

This bill would authorize the examiner or the issuing agency to allow payment of the penalty in installments, or allow the issuing agency to allow deferred payment of the penalty, at any stage of the process described above. This bill would also authorize the issuing agency to allow payment of the penalty in installments if the person does not contest the violation.

~~Existing law authorizes and specifies the circumstances under which an officer of the California Highway Patrol or a specified person authorized by a state agency may cause the removal of a vehicle from property owned or leased by the state and in the possession of the agency, or from the property of a district agricultural association. Existing law authorizes those persons to cause that removal to the nearest public garage after giving notice to the city police or county sheriff, as appropriate. Existing law also requires those persons to give notice to the registered and legal owners of the vehicle, or the Department of Justice, and the owner of a garage in which the vehicle is stored, as specified.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

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

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

1 SECTION 1. Section 40204 of the Vehicle Code is amended to
2 read:

3 40204. (a) If the parking penalty is received by the person
4 authorized to receive the deposit of the parking penalty and there
5 is no contest as to that parking violation, the proceedings under
6 this article shall terminate.

7 (b) *The issuing agency may, consistent with the written*
8 *guidelines established by the agency, allow payment of the parking*
9 *penalty in installments if the violator provides evidence satisfactory*
10 *to the issuing agency of an inability to pay the parking penalty in*
11 *full.*

12 SEC. 2. Section 40215 of the Vehicle Code is amended to read:

13 40215. (a) For a period of 21 calendar days from the issuance
14 of a notice of parking violation or 14 calendar days from the
15 mailing of a notice of delinquent parking violation, exclusive of
16 any days from the day the processing agency receives a request
17 for a copy or facsimile of the original notice of parking violation
18 pursuant to Section 40206.5 and the day the processing agency
19 complies with the request, a person may request an initial review
20 of the notice by the issuing agency. The request may be made by
21 telephone, in writing, or in person. There shall be no charge for
22 this review. If, following the initial review, the issuing agency is

1 satisfied that the violation did not occur, that the registered owner
2 was not responsible for the violation, or that extenuating
3 circumstances make dismissal of the citation appropriate in the
4 interest of justice, the issuing agency shall cancel the notice of
5 parking violation or notice of delinquent parking violation. The
6 issuing agency shall advise the processing agency, if any, of the
7 cancellation. The issuing agency or the processing agency shall
8 mail the results of the initial review to the person contesting the
9 notice, and, if following that review, cancellation of the notice
10 does not occur, include a reason for that denial, notification of the
11 ability to request an administrative hearing, and notice of the
12 procedure adopted pursuant to subdivision (b) for waiving
13 prepayment of the parking penalty based upon an inability to pay.

14 (b) If the person is dissatisfied with the results of the initial
15 review, the person may request an administrative hearing of the
16 violation no later than 21 calendar days following the mailing of
17 the results of the issuing agency's initial review. The request may
18 be made by telephone, in writing, or in person. The person
19 requesting an administrative hearing shall deposit the amount of
20 the parking penalty with the processing agency. The issuing agency
21 shall adopt a written procedure to allow a person to request an
22 administrative hearing without payment of the parking penalty
23 upon satisfactory proof of an inability to pay the amount due. After
24 January 1, 1996, an administrative hearing shall be held within 90
25 calendar days following the receipt of a request for an
26 administrative hearing, excluding time tolled pursuant to this
27 article. The person requesting the hearing may request one
28 continuance, not to exceed 21 calendar days.

29 (c) The administrative hearing process shall include the
30 following:

31 (1) The person requesting a hearing shall have the choice of a
32 hearing by mail or in person. An in-person hearing shall be
33 conducted within the jurisdiction of the issuing agency. If an
34 issuing agency contracts with an administrative provider, hearings
35 shall be held within the jurisdiction of the issuing agency or within
36 the county of the issuing agency.

37 (2) If the person requesting a hearing is a minor, that person
38 shall be permitted to appear at a hearing or admit responsibility
39 for the parking violation without the necessity of the appointment

1 of a guardian. The processing agency may proceed against the
2 minor in the same manner as against an adult.

3 (3) The administrative hearing shall be conducted in accordance
4 with written procedures established by the issuing agency and
5 approved by the governing body or chief executive officer of the
6 issuing agency. The hearing shall provide an independent,
7 objective, fair, and impartial review of contested parking violations.

8 (4) (A) The issuing agency's governing body or chief executive
9 officer shall appoint or contract with qualified examiners or
10 administrative hearing providers that employ qualified examiners
11 to conduct the administrative hearings. Examiners shall
12 demonstrate those qualifications, training, and objectivity necessary
13 to conduct a fair and impartial review. An examiner shall not be
14 employed, managed, or controlled by a person whose primary
15 duties are parking enforcement or parking citation, processing,
16 collection, or issuance. The examiner shall be separate and
17 independent from the citation collection or processing function.
18 An examiner's continued employment, performance evaluation,
19 compensation, and benefits shall not, directly or indirectly, be
20 linked to the amount of fines collected by the examiner.

21 (B) Examiners shall have a minimum of 20 hours of training.
22 The examiner is responsible for the costs of the training. The
23 issuing agency may reimburse the examiner for those costs.
24 Training may be provided through (i) an accredited college or
25 university, (ii) a program conducted by the Commission on Peace
26 Officer Standards and Training, (iii) American Arbitration
27 Association or a similar established organization, or (iv) through
28 any program approved by the governing board of the issuing
29 agency, including a program developed and provided by, or for,
30 the agency. Training programs may include topics relevant to the
31 administrative hearing, including, but not limited to, applicable
32 laws and regulations, parking enforcement procedures, due process,
33 evaluation of evidence, hearing procedures, and effective oral and
34 written communication. Upon the approval of the governing board
35 of the issuing agency, up to 12 hours of relevant experience may
36 be substituted for up to 12 hours of training. In addition, up to
37 eight hours of the training requirements described in this
38 subparagraph may be credited to an individual, at the discretion
39 of the governing board of the issuing agency, based upon training

1 programs or courses described in (i) to (iv), inclusive, that the
2 individual attended within the last five years.

3 (5) The officer or person who issues a notice of parking violation
4 shall not be required to participate in an administrative hearing.
5 The issuing agency shall not be required to produce any evidence
6 other than the notice of parking violation or copy thereof and
7 information received from the Department of Motor Vehicles
8 identifying the registered owner of the vehicle. The documentation
9 in proper form shall be prima facie evidence of the violation.

10 (6) The examiner's decision following the administrative hearing
11 may be personally delivered to the person by the examiner or sent
12 by first-class mail, and, if the notice is not cancelled, include a
13 written reason for that denial.

14 ~~(7) Following a determination by the examiner that a person~~
15 ~~has committed the violation, the~~*The examiner or the issuing*
16 *agency may, at any stage of the initial review or the administrative*
17 *hearing process, and* consistent with the written guidelines
18 established by the issuing agency, allow payment of the parking
19 penalty in installments, ~~or~~*an* the issuing agency may allow for
20 ~~deferred payment or allow for payments in installments; payment,~~
21 if the person provides evidence satisfactory to the examiner or the
22 issuing agency, as the case may be, of an inability to pay the
23 parking penalty in full. If authorized by the governing board of
24 the issuing agency, the examiner may permit the performance of
25 community service in lieu of payment of a parking penalty.

26 (d) The provisions of this section relating to the administrative
27 appeal process do not apply to an issuing agency that is a law
28 enforcement agency if the issuing agency does not also act as the
29 processing agency.

30 ~~SECTION 1. Section 22659 of the Vehicle Code is amended~~
31 ~~to read:~~

32 ~~22659. (a) A peace officer of the Department of the California~~
33 ~~Highway Patrol or a person duly authorized by the state agency~~
34 ~~in possession of property owned by the state, or rented or leased~~
35 ~~from others by the state and any peace officer of the Department~~
36 ~~of the California Highway Patrol providing policing services to~~
37 ~~property of a district agricultural association may, subsequent to~~
38 ~~giving notice to the city police or county sheriff, whichever is~~
39 ~~appropriate, cause the removal of a vehicle from the property to~~

1 the nearest public garage, under any of the following
2 circumstances:

3 (1) The vehicle is illegally parked in a location where signs are
4 posted giving notice of violation and removal.

5 (2) An officer arrests any person driving or in control of the
6 vehicle for an alleged offense and the officer is by this code or
7 other law required to take the person arrested before a magistrate
8 without unnecessary delay.

9 (3) The vehicle is found upon the property and report has
10 previously been made that the vehicle has been stolen or complaint
11 has been filed and a warrant thereon issued charging that the
12 vehicle has been embezzled.

13 (4) The person or persons in charge of the vehicle upon the
14 property are by reason of physical injuries or illness incapacitated
15 to that extent as to be unable to provide for its custody or removal.

16 (b) The person causing removal of the vehicle shall comply
17 with the requirements of Sections 22852 and 22853 relating to
18 notice.