

AMENDED IN SENATE JUNE 23, 2015

AMENDED IN ASSEMBLY APRIL 29, 2015

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1222

Introduced by Assembly Member Bloom

February 27, 2015

An act to amend Section 22513 of, and to add Section 22513.1 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1222, as amended, Bloom. Tow trucks.

(1) Existing law makes it a misdemeanor for the owner or operator of a tow truck to stop at the scene of an accident or near a disabled vehicle for the purpose of soliciting an engagement for towing services, either directly or indirectly, or to furnish any towing services, unless summoned to the scene, requested to stop, or flagged down by the owner or operator of a disabled vehicle, or requested to perform the service by a law enforcement officer or public agency pursuant to that agency's procedures.

This bill would, subject to exceptions, apply those provisions to a towing company. The bill would also require, in addition to being summoned to the scene, *scene or* requested to stop, or ~~flagged down~~ stop by the owner or operator of a disabled vehicle, that the towing company or the owner or operator of the tow truck possess specified information in writing prior to arriving at the scene, or obtain specified information prior to leaving the scene, and would require that information to be made available to law enforcement, upon request,

from the time the tow truck appears at the scene until the time the vehicle is towed and released to a third party. *The bill would provide that a writing for this purpose includes an electronic record.*

(2) Existing law also makes it a misdemeanor for the owner or operator of a tow truck to move any vehicle from a highway, street, or public property without the express authorization of the owner or operator of the vehicle or a law enforcement officer or public agency pursuant to that agency's procedures, when the vehicle has been left unattended or when there is an injury as the result of an accident.

This bill would recast, and subject to exceptions, apply those provisions to a towing company. The bill would delete the requirement for the express authorization of the owner or operator of the vehicle. The bill would require the towing company or the owner or operator of the tow truck to obtain specified information and to make that information available to law enforcement, upon request, from the time the vehicle is attached to or loaded on to the tow *truck* until the time the vehicle is towed and released to a third party.

The bill would, subject to exceptions, and if the vehicle owner or operator is present, also require the towing company or the owner or operator of the tow truck to furnish the vehicle's owner or operator with a written itemized estimate of all charges and services to be performed. Prior to removing the vehicle, the towing company or the owner or operator of the tow truck would be required to obtain the vehicle owner or operator's signature on the itemized estimate, and to furnish a copy to the person who signed the estimate, as specified.

The bill would require a towing company or the owner or operator of a tow truck to maintain specified documents for 3 years and to make those documents available for inspection and copying within 48 hours of a written request by specified law enforcement and prosecutorial entities. The bill would also require a business taking possession of a vehicle from a tow truck to document specified information, to maintain those documents for 3 years, and to make those documents available for inspection and copying within 48 hours of a written request by any officer or agent of a police department, sheriff's department, the Department of the California Highway Patrol, the Attorney General's office, the Bureau of Automotive Repair, a district attorney's office, or a city attorney's office.

The bill would provide, except for those provisions described in paragraph (1) above, that a willful violation of these requirements is a misdemeanor punishable by a fine not exceeding \$2,500, or

imprisonment in a county jail not exceeding 3 months, or both imprisonment and that fine.

By creating new crimes, 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 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 22513 of the Vehicle Code is amended
2 to read:

3 22513. (a) (1) It is a misdemeanor for a towing company or
4 the owner or operator of a tow truck to stop or cause a person to
5 stop at the scene of an accident or near a disabled vehicle for the
6 purpose of soliciting an engagement for towing services, either
7 directly or indirectly, to furnish towing services, to move a vehicle
8 from a highway, street, or public property when the vehicle has
9 been left unattended or when there is an injury as the result of an
10 accident, or to accrue charges for services furnished under those
11 circumstances, unless requested to perform that service by a law
12 enforcement officer or public agency pursuant to that agency's
13 procedures, or unless summoned to the ~~scene~~, *scene* or requested
14 to ~~stop, or flagged down~~ *stop* by the owner or operator of a disabled
15 vehicle.

16 (2) (A) A towing company or the owner or operator of a tow
17 truck summoned to the scene by the owner or operator of a disabled
18 vehicle shall possess all of the following information in writing
19 prior to arriving at the scene:

20 (i) The first and last name and working telephone number of
21 the person who summoned it to the scene.

22 (ii) The make, model, year, and license plate number of the
23 disabled vehicle.

24 (iii) The date and time it was summoned to the scene.

25 (iv) The name of the ~~person(s)~~ *person* who obtained the
26 information in clauses (i), (ii), and (iii).

1 (B) A towing company or the owner or operator of a tow truck
2 summoned to the scene by a motor club, as defined by Section
3 12142 of the Insurance Code, pursuant to the request of the owner
4 or operator of a disabled vehicle is exempt from the requirements
5 of subparagraph (A), provided it possesses all of the following
6 information in writing prior to arriving at the scene:

- 7 (i) The business name of the motor club.
- 8 (ii) The identification number the motor club assigns to the
9 referral.
- 10 (iii) The date and time it was summoned to the scene by the
11 motor club.

12 (3) A towing company or the owner or operator of a tow truck
13 requested to ~~stop or flagged down~~ at the scene by the owner or
14 operator of a disabled vehicle shall possess all of the following
15 information in writing upon arriving at the scene:

- 16 (A) The first and last name and working telephone number of
17 the person who requested the ~~stop or flagged it down~~: *stop*.
- 18 (B) The make, model, and license plate number, if one is
19 displayed, of the disabled vehicle.
- 20 (C) The date and time it was requested to ~~stop or flagged down~~:
21 *stop*.
- 22 (D) The name of the person who obtained the information in
23 subparagraphs (A), (B), and (C).

24 (4) A towing company or the owner or operator of a tow truck
25 summoned or requested by a law enforcement officer or public
26 agency pursuant to that agency’s procedures to stop at the scene
27 of an accident or near a disabled vehicle for the purpose of
28 soliciting an engagement for towing services, either directly or
29 indirectly, to furnish towing services, or that is expressly authorized
30 to move a vehicle from a highway, street, or public property when
31 the vehicle has been left unattended or when there is an injury as
32 the result of an accident, shall possess all of the following in
33 writing before leaving the scene:

- 34 (A) The identity of the law enforcement agency or public
35 agency.
- 36 (B) The log number, call number, incident number, or dispatch
37 number assigned to the incident by law enforcement or the public
38 agency, or the surname and badge number of the law enforcement
39 officer, or the surname and employee identification number of the
40 public agency employee.

1 (C) The date and time of the summons, request, or express
2 authorization.

3 (5) *For purposes of this section, "writing" includes electronic*
4 *records.*

5 (b) The towing company or the owner or operator of a tow truck
6 shall make the written information described in subdivision (a)
7 available to law enforcement, upon request, from the time it appears
8 at the scene until the time the vehicle is towed and released to a
9 third party, and shall maintain that information for three years.
10 The towing company or owner or operator of a tow truck shall
11 make that information available for inspection and copying within
12 48 hours of a written request from any officer or agent of a police
13 department, sheriff's department, the Department of the California
14 Highway Patrol, the Attorney General's office, a district attorney's
15 office, or a city attorney's office.

16 (c) (1) Prior to attaching a vehicle to the tow truck, if the vehicle
17 owner or operator is present at the time and location of the
18 anticipated tow, the towing company or the owner or operator of
19 the tow truck shall furnish the vehicle's owner or operator with a
20 written itemized estimate of all charges and services to be
21 performed. The estimate shall include all of the following:

22 (A) The name, address, telephone number, and motor carrier
23 permit number of the towing company.

24 (B) The license plate number of the tow truck performing the
25 tow.

26 (C) The first and last name of the towing operator, and if
27 different than the towing operator, the first and last name of the
28 person from the towing company furnishing the estimate.

29 (D) A description and cost for all services, including, but not
30 limited to, charges for labor, special equipment, mileage from
31 dispatch to return, and storage fees, expressed as a 24-hour rate.

32 (2) The tow truck operator shall obtain the vehicle owner or
33 operator's signature on the itemized estimate and shall furnish a
34 copy to the person who signed the estimate.

35 (3) The requirements in paragraph (1) may be completed after
36 the vehicle is attached and removed to the nearest safe shoulder
37 or street if done at the request of law enforcement or a public
38 agency, provided the estimate is furnished prior to the removal of
39 the vehicle from the nearest safe shoulder or street.

1 (4) The towing company or the owner or operator of a tow truck
 2 shall maintain the written documents described in this subdivision
 3 for three years, and shall make them available for inspection and
 4 copying within 48 hours of a written request from any officer or
 5 agent of a police department, sheriff’s department, the Department
 6 of the California Highway Patrol, the Attorney General’s office,
 7 a district attorney’s office, or a city attorney’s office.

8 (5) This subdivision does not apply to a towing company or the
 9 owner or operator of a tow truck summoned to the scene by a motor
 10 club, as defined by Section 12142 of the Insurance Code, pursuant
 11 to the request of the owner or operator of a disabled vehicle.

12 (6) This subdivision does not apply to a towing company or the
 13 owner or operator of a tow truck summoned to the scene by law
 14 enforcement or a public agency pursuant to that agency’s
 15 procedures, and operating at the scene pursuant to a contract with
 16 that law enforcement agency or public agency.

17 (d) (1) ~~A—~~*Except as provided in paragraph (2), a towing*
 18 *company or the owner or operator of a tow truck shall not charge*
 19 *a fee for towing or storage, or both, of a vehicle in excess of the*
 20 *greater of the following:*

21 (A) The fee that would have been charged for that towing or
 22 storage, or both, made at the request of a law enforcement agency
 23 under an agreement between a towing company and the law
 24 enforcement agency that exercises primary jurisdiction in the city
 25 in which the vehicle was, or was attempted to be, removed, or if
 26 not located within a city, the law enforcement agency that exercises
 27 primary jurisdiction in the county in which the vehicle was, or was
 28 attempted to be, removed.

29 (B) The fee that would have been charged for that towing or
 30 storage, or both, under the rate approved for that towing operator
 31 by the Department of the California Highway Patrol for the
 32 jurisdiction from which the vehicle was, or was attempted to be,
 33 removed.

34 (2) *Paragraph (1) does not apply to the towing or transportation*
 35 *of a vehicle or temporary storage of a vehicle in transit, if the*
 36 *towing or transportation is performed with the prior consent of*
 37 *the owner or operator of the vehicle.*

38 ~~(2)~~

39 (3) No charge shall be made in excess of the estimated price
 40 without the prior consent of the vehicle owner or operator.

1 ~~(3)~~

2 (4) All services rendered by a tow company or tow truck
3 operator, including any warranty or zero cost services, shall be
4 recorded on an invoice, as described in subdivision (e) of Section
5 ~~22651.07 of the Vehicle Code.~~ 22651.07. The towing company or
6 the owner or operator of a tow truck shall maintain the written
7 documents described in this subdivision for three years, and shall
8 make the documents available for inspection and copying within
9 48 hours of a written request from any officer or agent of a police
10 department, sheriff's department, the Department of the California
11 Highway Patrol, the Attorney General's office, a district attorney's
12 office, or a city attorney's office.

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

18 (f) This section shall not apply to the following:

19 (1) A vehicle owned or operated by, or under contract to, a
20 motor club, as defined by Section 12142 of the Insurance Code,
21 which stops to provide services for which compensation is neither
22 requested nor received, provided that those services may not
23 include towing other than that which may be necessary to remove
24 the vehicle to the nearest safe shoulder. The owner or operator of
25 that vehicle may contact a law enforcement agency or other public
26 agency on behalf of a motorist, but may not refer a motorist to a
27 tow truck owner or operator, unless the motorist is a member of
28 the motor club, the motorist is referred to a tow truck owner or
29 operator under contract to the motor club, and, if there is a dispatch
30 facility that services the area and is owned or operated by the motor
31 club, the referral is made through that dispatch facility.

32 (2) A tow truck operator employed by a law enforcement agency
33 or other public agency.

34 (3) A tow truck owner or operator acting under contract with a
35 law enforcement or other public agency to abate abandoned
36 vehicles, or to provide towing service or emergency road service
37 to motorists while involved in freeway service patrol operations,
38 to the extent authorized by law.

39 SEC. 2. Section 22513.1 is added to the Vehicle Code, to read:

1 22513.1. (a) A business taking possession of a vehicle from
 2 a tow truck shall document the name, address, and telephone
 3 number of the towing company, the name and driver’s license
 4 number of the tow truck operator, the make, model, and license
 5 plate or Vehicle Identification Number, and the date and time that
 6 possession was taken of the vehicle. If the vehicle was dropped
 7 off ~~after hours~~, *after hours*, the business shall obtain the information
 8 from the towing company the next day.

9 (b) The information required in this section shall be maintained
 10 for three years and shall be available for inspection and copying
 11 within 48 hours of a written request by any officer or agent of a
 12 police department, sheriff’s department, the Department of the
 13 California Highway Patrol, the Attorney General’s office, the
 14 Bureau of Automotive Repair, a district attorney’s office, or a city
 15 attorney’s office.

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

21 SEC. 3. No reimbursement is required by this act pursuant to
 22 Section 6 of Article XIII B of the California Constitution because
 23 the only costs that may be incurred by a local agency or school
 24 district will be incurred because this act creates a new crime or
 25 infraction, eliminates a crime or infraction, or changes the penalty
 26 for a crime or infraction, within the meaning of Section 17556 of
 27 the Government Code, or changes the definition of a crime within
 28 the meaning of Section 6 of Article XIII B of the California
 29 Constitution.