

Assembly Bill No. 1222

Passed the Assembly August 24, 2015

Chief Clerk of the Assembly

Passed the Senate August 20, 2015

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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 or requested to 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.

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

SECTION 1. Section 22513 of the Vehicle Code is amended to read:

22513. (a) (1) It is a misdemeanor for a towing company or the owner or operator of a tow truck to stop or cause a person 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, to furnish towing services, to move a vehicle from a highway, street, or public property when the vehicle has been left unattended or when there is an injury as the result of an accident, or to accrue charges for services furnished under those circumstances, unless requested to perform that service by a law enforcement officer or public agency pursuant to that agency's procedures, or unless summoned to the scene or requested to stop by the owner or operator of a disabled vehicle.

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

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

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

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

(iv) The name of the person who obtained the information in clauses (i), (ii), and (iii).

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

(i) The business name of the motor club.

(ii) The identification number the motor club assigns to the referral.

(iii) The date and time it was summoned to the scene by the motor club.

(3) A towing company or the owner or operator of a tow truck requested to stop at the scene by the owner or operator of a disabled

vehicle shall possess all of the following information in writing upon arriving at the scene:

(A) The first and last name and working telephone number of the person who requested the stop.

(B) The make, model, and license plate number, if one is displayed, of the disabled vehicle.

(C) The date and time it was requested to stop.

(D) The name of the person who obtained the information in subparagraphs (A), (B), and (C).

(4) A towing company or the owner or operator of a tow truck summoned or requested by a law enforcement officer or public agency pursuant to that agency's procedures 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, to furnish towing services, or that is expressly authorized to move a vehicle from a highway, street, or public property when the vehicle has been left unattended or when there is an injury as the result of an accident, shall possess all of the following in writing before leaving the scene:

(A) The identity of the law enforcement agency or public agency.

(B) The log number, call number, incident number, or dispatch number assigned to the incident by law enforcement or the public agency, or the surname and badge number of the law enforcement officer, or the surname and employee identification number of the public agency employee.

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

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

(b) The towing company or the owner or operator of a tow truck shall make the written information described in subdivision (a) available to law enforcement, upon request, from the time it appears at the scene until the time the vehicle is towed and released to a third party, and shall maintain that information for three years. The towing company or owner or operator of a tow truck shall make that information available for inspection and copying within 48 hours of a written request from any officer or agent of a police department, sheriff's department, the Department of the California

Highway Patrol, the Attorney General's office, a district attorney's office, or a city attorney's office.

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

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

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

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

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

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

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

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

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

(6) This subdivision does not apply to a towing company or the owner or operator of a tow truck summoned to the scene by law enforcement or a public agency pursuant to that agency's

procedures, and operating at the scene pursuant to a contract with that law enforcement agency or public agency.

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

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

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

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

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

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

(e) A person who willfully violates subdivision (b), (c), or (d) is guilty of a misdemeanor, punishable by a fine of not more than two thousand five hundred dollars (\$2,500), or by imprisonment

in a county jail for not more than three months, or by both that fine and imprisonment.

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

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

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

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

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

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

(b) The information required in this section shall be maintained for three years and shall be 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.

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

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

Approved _____, 2015

Governor