

Assembly Bill No. 2288

CHAPTER 884

An act to add Sections 22651.6 and 23109.2 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 24, 1996. Filed
with Secretary of State September 25, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2288, Aguiar. Motor vehicle speed contest: motor vehicle removal.

(1) Existing law prohibits any person from engaging in a motor vehicle speed contest on a highway. If a person is convicted of a violation of this offense, and the vehicle used in the violation is registered to that person, the vehicle may be impounded at the registered owner's expense for one to 30 days.

This bill would specifically allow a peace officer to arrest and take into custody any person that a peace officer determines was engaged in a motor vehicle speed contest. Under these circumstances, the bill would specifically allow the removal and seizure of the motor vehicle used in the contest, as specified, in accordance with an existing statutory procedure. The bill would require the impounding agency to release the vehicle to the registered owner prior to the conclusion of the impoundment period (a) if the vehicle was stolen, (b) was driven without the authorization of the registered owner, as specified, (c) the legal or registered owner of the vehicle is a rental car agency, or (d) the criminal matter is dismissed or charges are not filed because of a lack of evidence prior to the conclusion of the impoundment period, as described. The bill would make the registered owner or his or her agent responsible for all towing and storage charges related to the impoundment, and any administrative charges incurred by the local authority, except in cases described in (d), and would specify that the impounding agency is responsible for the actual costs incurred as a result of impoundment of the registered owner is absolved of liability, as specified.

The bill would require the release of the vehicle to the legal owner of the vehicle, or that owner's agent, on or before the 30th day of impoundment if all of specified conditions are met.

If the person convicted of the speeding offense was not authorized to operate the motor vehicle, the bill would require the court to order the person to reimburse the registered owner for the above described charges, thereby imposing a state-mandated local program by increasing the duties of the courts.



(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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

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

SECTION 1. Section 22651.6 is added to the Vehicle Code, to read:

22651.6. A peace officer or employee specified in Section 22651 may remove a vehicle located within the territorial limits in which the officer or employee may act when the vehicle was used by a person who was engaged in a motor vehicle speed contest, as described in subdivision (a) of Section 23109, and the person was arrested and taken into custody for that offense by a peace officer.

SEC. 2. Section 23109.2 is added to the Vehicle Code, to read:

23109.2. (a) Whenever a peace officer determines that a person was engaged in a motor vehicle speed contest, as described in subdivision (a) of Section 23109, the peace officer may immediately arrest and take into custody that person and may cause the removal and seizure of the motor vehicle used in that contest in accordance with Chapter 10 (commencing with Section 22650). A motor vehicle so seized may be impounded for not more than 30 days.

(b) The registered and legal owner of a vehicle that is removed and seized under subdivision (a) or their agents shall be provided the opportunity for a storage hearing to determine the validity of the storage in accordance with Section 22852.

(c) (1) Notwithstanding Chapter 10 (commencing with Section 22650) or any other provision of law, an impounding agency shall release a motor vehicle to the registered owner or his or her agent prior to the conclusion of the impoundment period described in subdivision (a) under any of the following circumstances:

(A) If the vehicle is a stolen vehicle.

(B) If the person alleged to have been engaged in the motor vehicle speed contest, as described in subdivision (a), was not authorized by the registered owner of the motor vehicle to operate the motor vehicle at the time of the commission of the offense.

(C) If the legal owner or registered owner of the vehicle is a rental car agency.



(D) If, prior to the conclusion of the impoundment period, a citation or notice is dismissed under Section 40500, criminal charges are not filed by the district attorney because of a lack of evidence, or the charges are otherwise dismissed by the court.

(2) A vehicle shall be released pursuant to this subdivision only if the registered owner or his or her agent presents a currently valid driver's license to operate the vehicle and proof of current vehicle registration, or if ordered by a court.

(3) If, pursuant to subparagraph (D) of paragraph (1) a motor vehicle is released prior to the conclusion of the impoundment period, neither the person charged with a violation of subdivision (a) of Section 23109 nor the registered owner of the motor vehicle is responsible for towing and storage charges nor shall the motor vehicle be sold to satisfy those charges.

(d) A vehicle seized and removed under subdivision (a) shall be released to the legal owner of the vehicle, or the legal owner's agent, on or before the 30th day of impoundment if all of the following conditions are met:

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

(2) The legal owner or the legal owner's agent pays all towing and storage fees related to the impoundment of the vehicle. No lien sale processing fees shall be charged to a legal owner who redeems the vehicle on or before the 15th day of impoundment.

(3) The legal owner or the legal owner's agent presents foreclosure documents or an affidavit of repossession for the vehicle.

(e) (1) The registered owner or his or her agent is responsible for all towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5.

(2) Notwithstanding paragraph (1), if the person convicted of engaging in a motor vehicle speed contest was not authorized by the registered owner of the motor vehicle to operate the motor vehicle at the time of the commission of the offense, the court shall order the convicted person to reimburse the registered owner for any towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5 incurred by the registered owner to obtain possession of the vehicle, unless the court finds that the person convicted does not have the ability to pay all or part of those charges.

(3) If the vehicle is a rental vehicle, the rental car agency may require the person to whom the vehicle was rented to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 that were incurred by the rental car agency in connection with obtaining possession of the vehicle.



(4) The owner shall not be liable for any towing and storage charges related to the impoundment if acquittal or dismissal occurs.

(5) The vehicle shall not be sold prior to the defendant's conviction.

(6) The impounding agency is responsible for the actual costs incurred by the towing agency as a result of the impoundment should the registered owner be absolved of liability for those charges pursuant to paragraph (3) of subdivision (c) of Section 23109.2. Notwithstanding this provision, nothing shall prohibit impounding agencies from making prior payment arrangements to satisfy this requirement.

(f) Any period in which a vehicle is subjected to storage under this section shall be included as part of the period of impoundment ordered by the court under subdivision (h) of Section 23109.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

