

Senate Bill No. 1111

CHAPTER 676

An act to amend Section 3074 of the Civil Code, and to amend Sections 22523, 22851.8, and 22851.12 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 20, 1996. Filed with Secretary of State September 23, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1111, Ayala. Vehicles: abandonment: lienholder.

(1) Under existing law, not more than 50% of the allowable lien sale preparation fees involving certain vehicles may be charged until, among other things, the lienholder has possession of the required lien processing documents.

This bill would include instances where the registration service agent has possession of the required lien processing documents as an alternative to the above.

(2) Existing law makes it unlawful to abandon a vehicle upon any public or private property without the express or implied consent of the owner or person in lawful possession of the property.

This bill would, in addition, make the last registered owner of the vehicle guilty of an infraction if the abandoned vehicle is not redeemed after impound. In addition to any other penalties, the bill would make the registered owner liable for any deficiency remaining after disposal of the abandoned vehicle. The registered owner of the vehicle would be relieved of liability if a report of sale or transfer of the vehicle or a theft report is filed. Because the bill would create a new crime, it would impose a state-mandated local program.

(3) Under existing law, if a money judgment is entered in favor of the vehicle lienholder and the judgment is not paid within 5 days after the judgment becomes final, the judgment may be enforced by a lien sale.

This bill would instead provide that the lienholder may then dispose of the vehicle through a dismantler or scrape iron processor.

(4) 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 3074 of the Civil Code is amended to read:

3074. The lienholder may charge a fee for lien-sale preparations not to exceed seventy dollars (\$70) in the case of a vehicle having a value determined to be two thousand five hundred dollars (\$2,500) or less and not to exceed one hundred dollars (\$100) in the case of a vehicle having a value determined to be greater than two thousand five hundred dollars (\$2,500), from any person who redeems the vehicle prior to disposal or is paid through a lien sale pursuant to this chapter. These charges may commence and become part of the possessory lien when the lienholder requests the names and addresses of all persons having an interest in the vehicle from the Department of Motor Vehicles. Not more than 50 percent of the allowable fee may be charged until the lien-sale notifications are mailed to all interested parties and the lienholder or registration service agent has possession of the required lien processing documents. This charge shall not be made in the case of any vehicle redeemed prior to 72 hours from the initial storage.

SEC. 2. Section 22523 of the Vehicle Code is amended to read:

22523. (a) No person shall abandon a vehicle upon any highway.

(b) No person shall abandon a vehicle upon public or private property without the express or implied consent of the owner or person in lawful possession or control of the property.

(c) Any person convicted of a violation of this section shall be punished by a fine of not less than one hundred dollars (\$100) and shall provide proof that the costs of removal and disposition of the vehicle have been paid. No part of any fine imposed shall be suspended. The fine may be paid in installments if the court determines that the defendant is unable to pay the entire amount in one payment.

(d) Proof that the costs of removal and disposition of the vehicle have been paid shall not be required if proof is provided to the court that the vehicle was stolen prior to abandonment. That proof may consist of a police report or other evidence acceptable to the court.

(e) The costs required to be paid for the removal and disposition of any vehicle determined to be abandoned pursuant to Section 22669 shall not exceed those for towing and seven days of storage. This subdivision does not apply if the registered owner or legal owner has completed and returned to the lienholder a "Declaration of Opposition" form within the time specified in Section 22851.8.

(f) (1) If a vehicle is abandoned in violation of subdivision (b) and is not redeemed after impound, the last registered owner is guilty of an infraction. In addition to any other penalty, the registered owner shall be liable for any deficiency remaining after disposal of the vehicle under Section 3071 or 3072 of the Civil Code or Section 22851.10 of this code.



(2) The filing of a report of sale or transfer of the vehicle pursuant to Section 5602, the filing of a vehicle theft report with a law enforcement agency, or the filing of a form or notice with the department pursuant to subdivision (b) of Section 4456 or Section 5900 or 5901 relieves the registered owner of liability under this subdivision.

SEC. 3. Section 22851.8 of the Vehicle Code is amended to read:

22851.8. (a) The lienholder shall, within 15 working days following the date of possession of the vehicle, make a request to the Department of Motor Vehicles for the names and addresses of all persons having an interest in the vehicle. No storage charge shall accrue beyond the 15-day period unless the lienholder has made a request to the Department of Motor Vehicles as provided for in this section.

(b) By certified mail with return receipt requested or by United States Postal Service Certificate of Mailing, the lienholder shall immediately, upon receipt of this information, send the following prescribed forms and enclosures to the registered owner and legal owner at their addresses of record with the Department of Motor Vehicles, and to any other person known to have an interest in the vehicle:

(1) A completed form entitled "Notice of Intent to Dispose of a Vehicle Valued at \$300 or Less".

(2) A blank form entitled "Declaration of Opposition".

(3) A return envelope preaddressed to the lienholder.

(c) All notices to persons having an interest in the vehicle shall be signed under penalty of perjury and shall include all of the following:

(1) A description of the vehicle, including make, year, model, identification number, license number, and state of registration. For motorcycles, the engine number shall also be included.

(2) The names and addresses of the registered and legal owners of the vehicle and any other person known to have an interest in the vehicle.

(3) The following statements and information:

(A) The amount of the lien.

(B) The facts concerning the claim which gives rise to the lien.

(C) The person has a right to a hearing in court.

(D) If a hearing in court is desired, a Declaration of Opposition form shall be signed under penalty of perjury and returned to the lienholder within 10 days of the date the notice form specified in paragraph (1) of subdivision (b) was mailed.

(E) If the Declaration of Opposition form is signed and mailed, the lienholder shall be allowed to dispose of the vehicle only if the lienholder obtains a court judgment or a subsequent release from the declarant or if the declarant cannot be served as described in subdivision (e).



(F) If a court action is filed, the declarant shall be notified of the lawsuit at the address shown on the Declaration of Opposition form, and the declarant may appear to contest the claim.

(G) The declarant may be liable for court costs if a judgment is entered in favor of the lienholder.

(4) A statement that the lienholder may dispose of the vehicle to a licensed dismantler or scrap iron processor if it is not redeemed or if a Declaration of Opposition form is not signed and mailed to the lienholder within 10 days of the date the notice form specified in paragraph (1) of subdivision (b) was mailed.

(d) If the lienholder receives a completed Declaration of Opposition form within the time prescribed, the vehicle shall not be disposed of unless the lienholder files an action in court within 20 days of the date the notice form specified in paragraph (1) of subdivision (b) was mailed and a judgment is subsequently entered in favor of the lienholder or unless the declarant subsequently releases his or her interest in the vehicle. If a money judgment is entered in favor of the lienholder and the judgment is not paid within five days after becoming final, then the lienholder may dispose of the vehicle through a dismantler or scrap iron processor.

(e) Service on the declarant in person or by certified mail, with return receipt requested, signed by the addressee at the address shown on the Declaration of Opposition form, shall be effective for the serving of process. If the lienholder has served the declarant by certified mail at the address shown on the Declaration of Opposition form and the mail has been returned unclaimed, or if the lienholder has attempted to effect service on the declarant in person with a marshal, sheriff, or licensed process server and the marshal, sheriff, or licensed process server has been unable to effect service on the declarant, the lienholder may proceed with the judicial proceeding or proceed with the lien sale without a judicial proceeding. The lienholder shall notify the Department of Motor Vehicles of the inability to effect service on the declarant and shall provide the Department of Motor Vehicles with a copy of the documents with which service on the declarant was attempted. Upon receipt of the notification of unsuccessful service, the Department of Motor Vehicles shall send authorization of the sale to the lienholder and send notification of the authorization to the declarant. If service is effected on the declarant, the proof of service shall be submitted to the Department of Motor Vehicles with the documents specified in Section 22851.10.

SEC. 4. Section 22851.12 of the Vehicle Code is amended to read:

22851.12. The lienholder may charge a fee for lien-sale preparations not to exceed seventy dollars (\$70) in the case of a vehicle having a value determined to be two thousand five hundred dollars (\$2,500) or less and not to exceed one hundred dollars (\$100) in the case of a vehicle having a value determined to be greater than



two thousand five hundred dollars (\$2,500), from any person who redeems the vehicle prior to disposal or is sold through a lien-sale pursuant to this chapter. These charges may commence and become part of the possessory lien when the lienholder requests the names and addresses of all persons having an interest in the vehicle from the department. Not more than 50 percent of the allowable fee may be charged until the lien-sale notifications are mailed to all interested parties and the lienholder or the registration service agent has possession of the required lien processing documents. This charge shall not be made in the case of any vehicle redeemed prior to 72 hours from the initial storage.

SEC. 5. 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.

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.

