

AMENDED IN ASSEMBLY APRIL 2, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 662

Introduced by Assembly Member Hertzberg

February 26, 1997

An act to ~~amend Section 22655.3 of~~ *add Section 14602.7* to the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 662, as amended, Hertzberg. Vehicles: fleeing or evading a peace officer: removal and ~~storage~~ *impoundment*.

(1) Existing law makes it a crime for any person, while operating a motor vehicle with the intent to evade, to willfully flee, or to otherwise attempt to evade, a pursuing peace officer's motor vehicle or bicycle if certain conditions exist. Existing law provides for enhanced penalties when additional circumstances exist.

This bill would authorize a peace officer to cause the removal and seizure of the person's vehicle when the officer has probable cause for the seizure of the vehicle on the grounds that the vehicle was an instrumentality used in violation of an offense described above. A vehicle so impounded would be subject to a 30-day impoundment period.

The bill would prescribe procedures to be followed for the release of the vehicle prior to the end of 30 days impoundment, including a requirement that a legal owner who has obtained possession of the impounded vehicle not

relinquish the vehicle to the registered owner until after the termination of the 30-day impoundment period and until after the registered owner has presented a valid driver's license or valid temporary driver's license to the legal owner. Because a violation of that requirement and certain other requirements and restrictions imposed by the bill would be an infraction, the bill would impose a state-mandated local program by creating a new crime.

(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.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law authorizes a peace officer who is pursuing a person who is fleeing or evading that officer in a motor vehicle in violation of specified provisions of the Vehicle Code to remove that vehicle from property other than that of the registered owner of the vehicle for prescribed purposes, and store the vehicle, if the driver abandons the vehicle and leaves it unattended. Existing law prohibits the impoundment of a vehicle pursuant to that provision if the driver is arrested before arrival of the towing equipment or if the registered owner is in the vehicle.~~

~~This bill would allow a vehicle to be removed from any property, and stored for a period not to exceed 30 days, if the vehicle is used to flee or evade a peace officer in violation of the above specified provisions of the Vehicle Code, and another prescribed provision of that code, regardless of whether the vehicle is abandoned by the driver. The bill would remove the existing prohibition against impoundment of the vehicle in the case of the driver's arrest or the registered owner's presence in the vehicle.~~

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

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

1 SECTION 1. ~~Section 22655.3 of the Vehicle Code is~~
2



1 SECTION 1. Section 14602.7 is added to the Vehicle
2 Code, to read:

3 14602.7. (a) Whenever a peace officer determines
4 that probable cause exists for the seizure of a vehicle on
5 the grounds that it was an instrumentality used in
6 violation of Section 2800.1, 2800.2, or 2800.3, the peace
7 officer may immediately cause removal and seizure of
8 that vehicle. A vehicle so impounded shall be impounded
9 for 30 days.

10 The impounding agency, within two working days of
11 impoundment, shall send a notice by certified mail,
12 return receipt requested, to the legal owner of the
13 vehicle, at the address obtained from the department,
14 informing the owner that the vehicle has been
15 impounded. Failure to notify the legal owner within two
16 working days shall prohibit the impounding agency from
17 charging more than 15 days impoundment when a legal
18 owner redeems the impounded vehicle.

19 (b) The registered and legal owner of a vehicle that is
20 removed and seized under subdivision (a) or their agents
21 shall be provided the opportunity for a storage hearing to
22 determine the validity of, or consider any mitigating
23 circumstances attendant to, the storage, in accordance
24 with Section 22852.

25 (c) (1) An impounding agency shall release a vehicle
26 to the registered owner or his or her agent prior to the
27 end of 30 days impoundment under any of the following
28 circumstances:

29 (A) When the vehicle is a stolen vehicle.

30 (B) When the vehicle is subject to bailment and is
31 driven by an unlicensed employee of the business
32 establishment, including a parking service or repair
33 garage.

34 (2) No vehicle shall be released pursuant to the
35 subdivision, except upon presentation of the registered
36 owner's or agent's currently valid driver's license to
37 operate the vehicle and proof of current vehicle
38 registration, or upon order of the court.

39 (d) The registered owner or his or her agent is
40 responsible for all towing and storage charges related to



1 *the impoundment, and any administrative charges*
2 *authorized under Section 22850.5.*

3 *(e) A vehicle removed and seized under subdivision*
4 *(a) shall be released to the legal owner of the vehicle or*
5 *the legal owner's agent prior to the end of the 30 days*
6 *impoundment if all of the following conditions are met.*

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

12 *(2) The legal owner or the legal owner's agent pays all*
13 *towing and storage fees related to the seizure of the*
14 *vehicle. No lien sale processing fees shall be charged to*
15 *the legal owner who redeems the vehicle prior to the 15th*
16 *day of impoundment.*

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

20 *(f) (1) A legal owner or the legal owner's agent that*
21 *obtains release of the vehicle pursuant to subdivision (e)*
22 *shall not release the vehicle to the registered owner of the*
23 *vehicle or any agents of the registered owner, unless a*
24 *registered owner is a rental car agency, until the*
25 *termination of the 30-day impoundment period.*

26 *(2) The legal owner or the legal owner's agent shall not*
27 *relinquish the vehicle to the registered owner until the*
28 *registered owner or that owner's agent presents his or her*
29 *valid driver's license or valid temporary driver's license*
30 *to the legal owner or the legal owner's agent. The legal*
31 *owner or the legal owner's agent shall make every*
32 *reasonable effort to ensure that the license presented is*
33 *valid.*

34 *(3) Prior to relinquishing the vehicle, the legal owner*
35 *may require the registered owner to pay all towing and*
36 *storage charges related to the impoundment and the*
37 *administrative charges authorized under Section 22850.5*
38 *that were incurred by the legal owner in connection with*
39 *obtaining the custody of the vehicle.*



1 (g) (1) A vehicle impounded and seized under
2 subdivision (a) shall be released to a rental car agency
3 prior to the end of 30 days impoundment if the agency is
4 either the legal owner or registered owner of the vehicle
5 and the agency pays all towing and storage fees related
6 to the seizure of the vehicle.

7 (2) The owner of a rental vehicle that was seized
8 under this section may continue to rent the vehicle upon
9 recovery of the vehicle. However, the rental car agency
10 shall not rent another vehicle to the driver who used the
11 vehicle that was seized to evade a police officer until 30
12 days after the date that the vehicle was seized.

13 (3) The rental car agency may require the person to
14 whom the vehicle was rented and who evaded the peace
15 officer to pay all towing and storage charges related to the
16 impoundment and any administrative charges
17 authorized under Section 22850.5 that were incurred by
18 the rental car agency in connection with obtaining
19 custody of the vehicle.

20 (h) Notwithstanding any other provision of this
21 section, the registered owner and not the legal owner
22 shall remain responsible for any towing and storage
23 charges related to the impoundment and the
24 administrative charges authorized under Section 22850.5
25 and any parking fines, penalties, and administrative fees
26 incurred by the registered owner.

27 SEC. 2. No reimbursement is required by this act
28 pursuant to Section 6 of Article XIII B of the California
29 Constitution because the only costs that may be incurred
30 by a local agency or school district will be incurred
31 because this act creates a new crime or infraction,
32 eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section
34 17556 of the Government Code, or changes the definition
35 of a crime within the meaning of Section 6 of Article
36 XIII B of the California Constitution.

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



1 amended to read:

2 ~~22655.3. (a) Any peace officer, as defined in Chapter~~
3 ~~4.5 (commencing with Section 830) of Title 3 of Part 2 of~~
4 ~~the Penal Code, pursuing a fleeing or evading person in~~
5 ~~a motor vehicle may remove and store a vehicle used in~~
6 ~~violation of Section 2800.1, 2800.2, or 2800.3 for a period~~
7 ~~not to exceed 30 days. All towing and storage fees for a~~
8 ~~vehicle removed under this section shall be paid by the~~
9 ~~owner, unless the vehicle was stolen or taken without~~
10 ~~permission.~~

11 ~~(b) As used in this section, “remove and store a~~
12 ~~vehicle” means that the peace officer may cause the~~
13 ~~removal of a vehicle to, and storage of a vehicle in, a~~
14 ~~private lot where the vehicle may be secured by the~~
15 ~~owner of the facility or by the owner’s representative.~~

16 ~~(c) This section is not intended to change current~~
17 ~~statute and case law governing searches and seizures.~~

