

AMENDED IN ASSEMBLY APRIL 12, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 745

Introduced by Assembly Member Washington

February 24, 1999

An act to add Section 1465.8 to the Penal Code, and to amend ~~Section 12808~~ *Sections 12808 and 14602.6* of the Vehicle Code, relating to fines.

LEGISLATIVE COUNSEL'S DIGEST

AB 745, as amended, Washington. ~~Fines~~ *Vehicles: fines: impoundment.*

(1) Under existing law, additional penalties are imposed by the counts upon a person when that person fails to appear as promised, pay a fine or bail, or comply with a condition of a court relating to failure to appear or failure to pay a fine or bail.

This bill would limit the amount of these additional penalties to \$100, exclusive of the original base fine and original penalty assessments, for infractions involving *certain vehicle registration violations*, lighting equipment violations, windshield and mirror equipment violations, and all other equipment violations.

(2) Existing law authorizes the Department of Motor Vehicles to remove and destroy notices relating to the failure to appear, order to appear, or failure to comply with a court order that have been on file for 5 years and to remove and destroy similar notices relating to driving under the influence

of alcohol, drugs, or a combination of drugs and alcohol, that have been on file for 10 years.

This bill would require all of the described notices to be on file for 10 years prior to their removal and destruction.

(3) Existing law requires vehicles that have been removed and seized by a peace officer because the driving privilege of the driver is suspended or revoked or because the driver is operating the vehicle without ever having been issued a license to be impounded for 30 days.

This bill would create the following exceptions to the 30-day impoundment: (a) a vehicle shall be impounded for 5 days if it is being driven by a person described above whose suspension is based on a violation of failure to appear or pay a fine for certain infraction violations of the Vehicle Code, (b) a vehicle shall be impounded for 8 hours if it is driven by a person described above who allegedly does not have a current driver's license and the person has never been issued a driver's license, and (c) a vehicle shall be impounded for 60 days if the driver's privilege is currently suspended or revoked, the driver has at least one previous conviction of driving under the influence of alcohol, drugs, or both, within 7 years, and the driver is currently arrested for an alleged driving under the influence violation. The bill would require a vehicle described in (c) to be removed, seized, or impounded by a peace officer. To the extent that this would increase the level of service of local law enforcement agencies, this bill would impose a state-mandated local program.

The bill would set forth the intent of the Legislature that failure of a state or local law enforcement agency to undertake the required course of action described in (c) shall result in a reduction of state revenues appropriated to that agency in the annual Budget Act.

(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, 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.

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 1465.8 is added to the Penal
2 Code, to read:
3 1465.8. Notwithstanding Section 76000 of the
4 Government Code, Sections 1214.1 and 1464 of this code,
5 and Sections 40310, 40508.5, 40508.6, and 42006 of the
6 Vehicle Code, or any other provision of law, any
7 additional penalty imposed for failure to appear as
8 promised, for failure to pay a fine or bail, or for failure to
9 comply with a condition of a court order relating to a
10 failure to appear or pay a fine or bail, shall not exceed one
11 hundred dollars (\$100), exclusive of the original base fine
12 and the original penalty assessment, for the following
13 infractions:
14 (a) *Registration violations under subdivision (a) of*
15 *Section 4000.*
16 (b) All lighting equipment violations listed in Chapter
17 2 (commencing with Section 24250) of Division 12 of the
18 Vehicle Code.
19 ~~(b)~~
20 (c) All windshield and mirror violations listed in
21 Chapter 4 (commencing with Section 26700) of Division
22 12 of the Vehicle Code.
23 ~~(c)~~
24 (d) All other equipment violations listed in Chapter 5
25 (commencing with Section 27000) of Division 12 of the
26 Vehicle Code.
27 SEC. 2. Section 12808 of the Vehicle Code is amended
28 to read:



1 12808. (a) The department shall, before issuing or
2 renewing any license, check the record of the applicant
3 for conviction of traffic violations and traffic accidents.

4 (b) The department shall, before issuing or renewing
5 any license, check the record of the applicant for notices
6 of failure to appear in court filed with it and shall withhold
7 or shall not issue a license to any applicant who has
8 violated his written promise to appear in court unless the
9 department has received a certificate issued by the
10 magistrate or clerk of the court hearing the case in which
11 the promise was given showing that the case has been
12 adjudicated or unless the applicant's record is cleared as
13 provided in Chapter 6 (commencing with Section 41500)
14 of Division 17. In lieu of the certificate of adjudication, a
15 notice from the court stating that the original records
16 have been lost or destroyed shall permit the department
17 to issue a license.

18 (c) Any notice received by the department pursuant
19 to Section 40509, 40509.1, or 40509.5 that has been on file
20 10 years may be removed from the department records
21 and destroyed at the discretion of the department.

22 *SEC. 3. Section 14602.6 of the Vehicle Code is*
23 *amended to read:*

24 14602.6. (a) Whenever a peace officer determines
25 that a person ~~was~~ *is* driving a vehicle while his or her
26 driving privilege ~~was~~ *is* suspended or revoked or without
27 ever having been issued a license, the peace officer may
28 either immediately arrest that person and cause the
29 removal and seizure of that vehicle or, if the vehicle is
30 involved in a traffic collision, cause the removal and
31 seizure of the vehicle, without the necessity of arresting
32 the person in accordance with Chapter 10 (commencing
33 with Section 22650) of Division 11. A vehicle so
34 impounded shall be impounded for 30 days *except under*
35 *the following circumstances:*

36 (1) *A vehicle shall be impounded for five days if the*
37 *vehicle is driven by a person in violation of subdivision (a)*
38 *of Section 14601.1 because the person's driving privilege*
39 *was suspended under subdivision (a) of Section 13365.*



1 (2) A vehicle shall be impounded for eight hours if the
2 vehicle is driven by a person who is alleged to be in
3 violation of subdivision (a) of Section 12500 and who has
4 never been issued a driver's license.

5 (3) (A) A vehicle shall be impounded for 60 days if the
6 vehicle is driven by a person whose driving privilege is
7 currently suspended or revoked under this code, who was
8 convicted within the prior seven years of one or more
9 separate violations of Section 23103, as specified in
10 Section 23103.5, or Section 23152 or 23153, and who is
11 arrested for an alleged violation of Section 23152 or 23153.

12 (B) Notwithstanding any other provision in this
13 subdivision, a vehicle described in this paragraph shall be
14 removed, seized, and impounded by a peace officer.

15 The impounding agency, within two working days of
16 impoundment, shall send a notice by certified mail,
17 return receipt requested, to the legal owner of the
18 vehicle, at the address obtained from the department,
19 informing the owner that the vehicle has been
20 impounded. ~~Failure to notify the legal owner within two~~
21 ~~working days shall prohibit the~~ The impounding agency
22 ~~from charging~~ may not charge for more than 15 days'
23 impoundment when the legal owner redeems the
24 impounded vehicle if the impounding agency failed to
25 notify the legal owner within two working days of
26 impoundment.

27 (b) The registered and legal owner of a vehicle that is
28 removed and seized under subdivision (a) or their agents
29 shall be provided the opportunity for a storage hearing to
30 determine the validity of, or consider any mitigating
31 circumstances attendant to, the storage, in accordance
32 with Section 22852.

33 (c) Any period in which a vehicle is subjected to
34 storage under this section shall be included as part of the
35 period of impoundment ordered by the court under
36 subdivision (a) of Section 14602.5.

37 (d) (1) An impounding agency shall release a vehicle
38 to the registered owner or his or her agent prior to the
39 end of 30 days' impoundment under any of the following
40 circumstances:



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

2 (B) When the vehicle is subject to bailment and is
3 driven by an unlicensed employee of a business
4 establishment, including a parking service or repair
5 garage.

6 (C) When the license of the driver ~~was~~ *is* suspended or
7 revoked for an offense other than those included in
8 Article 2 (commencing with Section 13200) of Chapter 2
9 of Division 6 or Article 3 (commencing with Section
10 13350) of Chapter 2 of Division 6.

11 (2) No vehicle shall be released pursuant to this
12 subdivision, except upon presentation of the registered
13 owner's or agent's currently valid driver's license to
14 operate the vehicle and proof of current vehicle
15 registration, or upon order of a court.

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

20 (f) A vehicle removed and seized under subdivision
21 (a) shall be released to the legal owner of the vehicle or
22 the legal owner's agent prior to the end of 30 days'
23 impoundment if all of the following conditions are met:

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

29 (2) The legal owner or the legal owner's agent pays all
30 towing and storage fees related to the seizure of the
31 vehicle. No lien sale processing fees shall be charged to
32 the legal owner who redeems the vehicle prior to the
33 fifteenth day of impoundment.

34 (3) The legal owner or the legal owner's agent
35 presents foreclosure documents or an affidavit of
36 repossession for the vehicle. The foreclosure documents
37 or affidavit of repossession may be originals, photocopies,
38 or facsimile copies, or may be transmitted electronically.

39 (g) (1) A legal owner or the legal owner's agent ~~that~~
40 *who* obtains release of the vehicle pursuant to subdivision



1 (f) shall not release the vehicle to the registered owner
2 of the vehicle or any agents of the registered owner,
3 unless the registered owner is a rental car agency, until
4 after the termination of the 30-day impoundment period.

5 (2) The legal owner or the legal owner's agent shall not
6 relinquish the vehicle to the registered owner until the
7 registered owner or that owner's agent presents his or her
8 valid driver's license or valid temporary driver's license
9 to the legal owner or the legal owner's agent. The legal
10 owner or the legal owner's agent shall make every
11 reasonable effort to ensure that the license presented is
12 valid.

13 (3) Prior to relinquishing the vehicle, the legal owner
14 may require the registered owner to pay all towing and
15 storage charges related to the impoundment and any
16 administrative charges authorized under Section 22850.5
17 that were incurred by the legal owner in connection with
18 obtaining custody of the vehicle.

19 (h) (1) A vehicle removed and seized under
20 subdivision (a) shall be released to a rental car agency
21 prior to the end of 30 days' impoundment if the agency
22 is either the legal owner or registered owner of the
23 vehicle and the agency pays all towing and storage fees
24 related to the seizure of the vehicle.

25 (2) The owner of a rental vehicle that was seized
26 under this section may continue to rent the vehicle upon
27 recovery of the vehicle. However, the rental car agency
28 shall not rent another vehicle to the driver of the vehicle
29 that was seized until 30 days after the date that the vehicle
30 was seized.

31 (3) The rental car agency may require the person to
32 whom the vehicle was rented to pay all towing and
33 storage charges related to the impoundment and any
34 administrative charges authorized under Section 22850.5
35 that were incurred by the rental car agency in connection
36 with obtaining custody of the vehicle.

37 (i) Notwithstanding any other provision of this
38 section, the registered owner and not the legal owner
39 shall remain responsible for any towing and storage
40 charges related to the impoundment, any administrative



1 charges authorized under Section 22850.5, and any
2 parking fines, penalties, and administrative fees incurred
3 by the registered owner.

4 *SEC. 4. It is the intent of the Legislature in adding*
5 *paragraph (3) to subdivision (a) of Section 14602.6 of the*
6 *Vehicle Code, that state and local law enforcement*
7 *agencies shall seize, remove, and impound vehicles*
8 *described in that paragraph and that the failure of a law*
9 *enforcement agency to take that action shall result in a*
10 *reduction of state revenues appropriated to that agency*
11 *in the annual Budget Act.*

12 *SEC. 5. Notwithstanding Section 17610 of the*
13 *Government Code, if the Commission on State Mandates*
14 *determines that this act contains costs mandated by the*
15 *state, reimbursement to local agencies and school*
16 *districts for those costs shall be made pursuant to Part 7*
17 *(commencing with Section 17500) of Division 4 of Title*
18 *2 of the Government Code. If the statewide cost of the*
19 *claim for reimbursement does not exceed one million*
20 *dollars (\$1,000,000), reimbursement shall be made from*
21 *the State Mandates Claims Fund.*

