

**Introduced by Senator Hayden**

February 23, 2000

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An act to amend Sections 14602.6 and 22852 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1765, as introduced, Hayden. Vehicle forfeiture: storage.

(1) Existing law authorizes a peace officer to either immediately arrest a person and cause the removal and seizure of the vehicle he or she was operating or, if the vehicle is involved in a traffic collision, cause the removal and seizure of the vehicle, without the necessity of arresting the person, if the peace officer determines that the person was driving the vehicle while his or her driving privilege was suspended or revoked or without having been issued a license. Existing law requires the vehicle to be impounded for 30 days, but allows for the vehicle to be released prior to the end of that 30 days, except, among other things, where the suspension or revocation was ordered by the court for certain offenses or by the Department of Motor Vehicles based on certain convictions.

This bill would limit the peace officer authority described above to instances where the prior suspension or revocation was based on offenses or convictions under which the release of the vehicle prior to the 30-day period is currently prohibited and would eliminate the authority to remove and seize the vehicle in instances where the person was driving without having been issued a driver's license. The bill would

also limit the release of the vehicle prior to the end of the 30-day impound period in conformity with the other changes described in this paragraph.

(2) Under existing law, a notice of storage is required to be mailed or personally delivered to the registered and legal owner within 48 hours whenever an authorized member of a public agency directs that storage.

This bill would require the notice to be delivered at the addresses noted in the Department of Motor Vehicle's records.

This bill would also provide that the registered owner and the legal owner are not responsible for the payment of any storage fees if there was a failure to provide the specified notice, a storage hearing was not conducted following a timely request, the vehicle was seized for an offense that is not listed, or a meaningful hearing, as described, was not conducted.

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

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

1 SECTION 1. Section 14602.6 of the Vehicle Code is  
2 amended to read:

3 14602.6. (a) Whenever a peace officer determines  
4 that a person was driving a vehicle while his or her driving  
5 privilege was suspended or revoked ~~or without ever~~  
6 ~~having been issued a license pursuant to Article 2~~  
7 ~~(commencing with Section 13200) or Article 3~~  
8 ~~(commencing with Section 13350) of Chapter 2,~~ the  
9 peace officer may either immediately arrest that person  
10 and cause the removal and seizure of that vehicle or, if the  
11 vehicle is involved in a traffic collision, cause the removal  
12 and seizure of the vehicle, without the necessity of  
13 arresting the person in accordance with Chapter 10  
14 (commencing with Section 22650) of Division 11. A  
15 vehicle so impounded shall be impounded for 30 days.

16 The impounding agency, within two working days of  
17 impoundment, shall send a notice by certified mail,  
18 return receipt requested, to the legal owner of the  
19 vehicle, at the address obtained from the department,



1 informing the owner that the vehicle has been  
2 impounded. Failure to notify the legal owner within two  
3 working days shall prohibit the impounding agency from  
4 charging for more than 15 days' impoundment when the  
5 legal owner redeems the impounded vehicle.

6 (b) The registered and legal owner of a vehicle that is  
7 removed and seized under subdivision (a) or their agents  
8 shall be provided the opportunity for a storage hearing to  
9 determine the validity of, or consider any mitigating  
10 circumstances attendant to, the storage, in accordance  
11 with Section 22852.

12 (c) Any period in which a vehicle is subjected to  
13 storage under this section shall be included as part of the  
14 period of impoundment ordered by the court under  
15 subdivision (a) of Section 14602.5.

16 (d) (1) An impounding agency shall release a vehicle  
17 to the registered owner or his or her agent prior to the  
18 end of 30 days' impoundment under ~~any~~ *either* of the  
19 following circumstances:

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

21 (B) When the vehicle is subject to bailment and is  
22 driven by an unlicensed employee of a business  
23 establishment, including a parking service or repair  
24 garage.

25 ~~(C) When the license of the driver was suspended or~~  
26 ~~revoked for an offense other than those included in~~  
27 ~~Article 2 (commencing with Section 13200) of Chapter 2~~  
28 ~~of Division 6 or Article 3 (commencing with Section~~  
29 ~~13350) of Chapter 2 of Division 6.~~

30 (2) No vehicle shall be released pursuant to this  
31 subdivision, except upon presentation of the registered  
32 owner's or agent's currently valid driver's license to  
33 operate the vehicle and proof of current vehicle  
34 registration, or upon order of a court.

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

39 (f) A vehicle removed and seized under subdivision  
40 (a) shall be released to the legal owner of the vehicle or



1 the legal owner's agent prior to the end of 30 days'  
2 impoundment if all of the following conditions are met:

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

8 (2) The legal owner or the legal owner's agent pays all  
9 towing and storage fees related to the seizure of the  
10 vehicle. No lien sale processing fees shall be charged to  
11 the legal owner who redeems the vehicle prior to the  
12 fifteenth day of impoundment.

13 (3) The legal owner or the legal owner's agent  
14 presents foreclosure documents or an affidavit of  
15 repossession for the vehicle. The foreclosure documents  
16 or affidavit of repossession may be originals, photocopies,  
17 or facsimile copies, or may be transmitted electronically.

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

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

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

38 (h) (1) A vehicle removed and seized under  
39 subdivision (a) shall be released to a rental car agency  
40 prior to the end of 30 days' impoundment if the agency



1 is either the legal owner or registered owner of the  
2 vehicle and the agency pays all towing and storage fees  
3 related to the seizure of the vehicle.

4 (2) The owner of a rental vehicle that was seized  
5 under this section may continue to rent the vehicle upon  
6 recovery of the vehicle. However, the rental car agency  
7 shall not rent another vehicle to the driver of the vehicle  
8 that was seized until 30 days after the date that the vehicle  
9 was seized.

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

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

23 SEC. 2. Section 22852 of the Vehicle Code is amended  
24 to read:

25 22852. (a) Whenever an authorized member of a  
26 public agency directs the storage of a vehicle, as  
27 permitted by this chapter, or upon the storage of any  
28 vehicle as permitted herein (except as provided in  
29 subdivision (f) or (g)), the agency or person directing the  
30 storage shall provide the vehicle's registered and legal  
31 owners of record, or their agents, with the opportunity for  
32 a poststorage hearing to determine the validity of the  
33 storage.

34 (b) A notice of the storage shall be mailed or  
35 personally delivered to the registered and legal owners *at*  
36 *the addresses noted in the Department of Motor*  
37 *Vehicle's records of the registered owner and legal owner*  
38 within 48 hours, excluding weekends and holidays, and  
39 shall include all of the following information:



1 (1) The name, address, and telephone number of the  
2 agency providing the notice.

3 (2) The location of the place of storage and description  
4 of the vehicle, which shall include, if available, the name  
5 or make, the manufacturer, the license plate number, and  
6 the mileage.

7 (3) The authority and purpose for the removal of the  
8 vehicle.

9 (4) A statement that, in order to receive their  
10 poststorage hearing, the owners, or their agents, shall  
11 request the hearing in person, writing, or by telephone  
12 within 10 days of the date appearing on the notice.

13 (c) The poststorage hearing shall be conducted within  
14 48 hours of the request, excluding weekends and holidays.  
15 The public agency may authorize its own officer or  
16 employee to conduct the hearing if the hearing officer is  
17 not the same person who directed the storage of the  
18 vehicle.

19 (d) Failure of either the registered or legal owner, or  
20 his or her agent, to request or to attend a scheduled  
21 hearing shall satisfy the poststorage hearing requirement.

22 (e) The agency employing the person who directed  
23 the storage shall be responsible for the costs incurred for  
24 towing and storage if it is determined in the poststorage  
25 hearing that reasonable grounds for the storage are not  
26 established.

27 (f) This section does not apply to vehicles abated  
28 under the Abandoned Vehicle Abatement Program  
29 pursuant to Sections 22660 to 22668, inclusive, and Section  
30 22710, or to vehicles impounded for investigation  
31 pursuant to Section 22655, or to vehicles removed from  
32 private property pursuant to Section 22658.

33 (g) This section does not apply to abandoned vehicles  
34 removed pursuant to Section 22669 which are  
35 determined by the public agency to have an estimated  
36 value of three hundred dollars (\$300) or less.

37 (h) *The registered owner and the legal owner are not*  
38 *responsible for the payment of any storage fees if any of*  
39 *the following occurred:*



1 (1) *There was a failure to provide the notice of storage*  
2 *in the timely manner required by this section.*

3 (2) *A poststorage hearing was not conducted following*  
4 *a timely request in accordance with this section.*

5 (3) *The vehicle was seized under Section 14602.6 for*  
6 *an offense that does not authorize the seizure of the*  
7 *vehicle.*

8 (4) *A meaningful hearing was not conducted. For*  
9 *purposes of this paragraph, a meaningful hearing consists*  
10 *of the following:*

11 (A) *The owner is able to personally appear at the*  
12 *hearing and offer oral testimony and written*  
13 *documentation or argument.*

14 (B) *The owner is able to present the testimony of*  
15 *witnesses.*

16 (C) *The owner is able to cross-examine any witnesses*  
17 *against him or her.*

18 (D) *The owner is given an opportunity to review any*  
19 *written information against him or her and is given*  
20 *sufficient time to respond or explain the written*  
21 *documentation.*

22 (E) *The owner is given the opportunity to review the*  
23 *documents in his or her case prior to the hearing.*

24 (F) *The owner is informed and given the opportunity*  
25 *to subpoena information or persons to the hearing to*  
26 *support the case if the information could not otherwise be*  
27 *obtained in a timely manner for the hearing.*

28 (G) *The hearing officer is all of the following:*

29 (i) *An impartial decisionmaker.*

30 (ii) *Is well versed on the Vehicle Code.*

31 (iii) *Is specifically designated to be a hearing officer.*

32 (iv) *Has a working knowledge of federal and state law*  
33 *on all due process issues.*

34 (v) *Has had indepth training with due process issues*  
35 *and conducting administrative hearings.*

36 (H) *The hearing decision is based solely on the*  
37 *evidence introduced at the time of the hearing.*

38 (I) *A decision is issued in a timely manner after the*  
39 *hearing and the decision contains a summary of facts and*  
40 *the claimant's position, the evidence introduced, and the*



- 1 *ultimate decision reached is supported by finding of facts*
- 2 *that incorporate the facts in the case.*
- 3 *(J) A decision adverse to the owner is not based solely*
- 4 *on hearsay.*

