

ASSEMBLY BILL

No. 1151

Introduced by Assembly Member Carter

February 27, 2009

An act to amend Section 22651 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1151, as introduced, Carter. Vehicles: removal.

Existing law authorizes a peace officer, or a regularly employed and salaried public employee who is engaged in directing traffic or enforcing parking laws and regulations, to remove a vehicle located within the territorial limits in which the officer or employee is allowed to act under specified and enumerated circumstances, including, among other things, when a vehicle is illegally parked and blocks the movement of a legally parked vehicle. A violation of this provision is an infraction.

This bill would make a technical, nonsubstantive change to these provisions.

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

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

- 1 SECTION 1. Section 22651 of the Vehicle Code is amended
- 2 to read:
- 3 22651. A peace officer, as defined in Chapter 4.5 (commencing
- 4 with Section 830) of Title 3 of Part 2 of the Penal Code, or a
- 5 regularly employed and salaried employee, who is engaged in
- 6 directing traffic or enforcing parking laws and regulations, of a

1 city, county, or jurisdiction of a state agency in which a vehicle is
2 located, may remove a vehicle located within the territorial limits
3 in which the officer or employee may act, under *any of* the
4 following circumstances:

5 (a) When a vehicle is left unattended upon a bridge, viaduct, or
6 causeway or in a tube or tunnel where the vehicle constitutes an
7 obstruction to traffic.

8 (b) When a vehicle is parked or left standing upon a highway
9 in a position so as to obstruct the normal movement of traffic or
10 in a condition so as to create a hazard to other traffic upon the
11 highway.

12 (c) When a vehicle is found upon a highway or public land and
13 a report has previously been made that the vehicle is stolen or a
14 complaint has been filed and a warrant thereon is issued charging
15 that the vehicle is embezzled.

16 (d) When a vehicle is illegally parked so as to block the entrance
17 to a private driveway and it is impractical to move the vehicle from
18 in front of the driveway to another point on the highway.

19 (e) When a vehicle is illegally parked so as to prevent access
20 by firefighting equipment to a fire hydrant and it is impracticable
21 to move the vehicle from in front of the fire hydrant to another
22 point on the highway.

23 (f) When a vehicle, except highway maintenance or construction
24 equipment, is stopped, parked, or left standing for more than four
25 hours upon the right-of-way of a freeway that has full control of
26 access and no crossings at grade and the driver, if present, cannot
27 move the vehicle under its own power.

28 (g) When the person in charge of a vehicle upon a highway or
29 public land is, by reason of physical injuries or illness,
30 incapacitated to an extent so as to be unable to provide for its
31 custody or removal.

32 (h) (1) When an officer arrests a person driving or in control
33 of a vehicle for an alleged offense and the officer is, by this code
34 or other law, required or permitted to take, and does take, the
35 person into custody.

36 (2) When an officer serves a notice of an order of suspension
37 or revocation pursuant to Section 13388 or 13389.

38 (i) (1) When a vehicle, other than a rented vehicle, is found
39 upon a highway or public land, or is removed pursuant to this code,
40 and it is known that the vehicle has been issued five or more notices

1 of parking violations to which the owner or person in control of
2 the vehicle has not responded within 21 calendar days of notice
3 of citation issuance or citation issuance or 14 calendar days of the
4 mailing of a notice of delinquent parking violation to the agency
5 responsible for processing notices of parking violations, or the
6 registered owner of the vehicle is known to have been issued five
7 or more notices for failure to pay or failure to appear in court for
8 traffic violations for which a certificate has not been issued by the
9 magistrate or clerk of the court hearing the case showing that the
10 case has been adjudicated or concerning which the registered
11 owner's record has not been cleared pursuant to Chapter 6
12 (commencing with Section 41500) of Division 17, the vehicle may
13 be impounded until that person furnishes to the impounding law
14 enforcement agency all of the following:

15 (A) Evidence of his or her identity.

16 (B) An address within this state at which he or she can be
17 located.

18 (C) Satisfactory evidence that all parking penalties due for the
19 vehicle and all other vehicles registered to the registered owner of
20 the impounded vehicle, and all traffic violations of the registered
21 owner, have been cleared.

22 (2) The requirements in subparagraph (C) of paragraph (1) shall
23 be fully enforced by the impounding law enforcement agency on
24 and after the time that the Department of Motor Vehicles is able
25 to provide access to the necessary records.

26 (3) A notice of parking violation issued for an unlawfully parked
27 vehicle shall be accompanied by a warning that repeated violations
28 may result in the impounding of the vehicle. In lieu of furnishing
29 satisfactory evidence that the full amount of parking penalties or
30 bail has been deposited, that person may demand to be taken
31 without unnecessary delay before a magistrate, for traffic offenses,
32 or a hearing examiner, for parking offenses, within the county in
33 which the offenses charged are alleged to have been committed
34 and who has jurisdiction of the offenses and is nearest or most
35 accessible with reference to the place where the vehicle is
36 impounded. Evidence of current registration shall be produced
37 after a vehicle has been impounded, or, at the discretion of the
38 impounding law enforcement agency, a notice to appear for
39 violation of subdivision (a) of Section 4000 shall be issued to that
40 person.

(4) A vehicle shall be released to the legal owner, as defined in Section 370, if the legal owner does all of the following:

(A) Pays the cost of towing and storing the vehicle.

(B) Submits evidence of payment of fees as provided in Section 9561.

(C) Completes an affidavit in a form acceptable to the impounding law enforcement agency stating that the vehicle was not in possession of the legal owner at the time of occurrence of the offenses relating to standing or parking. A vehicle released to a legal owner under this subdivision is a repossessed vehicle for purposes of disposition or sale. The impounding agency shall have a lien on any surplus that remains upon sale of the vehicle to which the registered owner is or may be entitled, as security for the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5. The legal owner shall promptly remit to, and deposit with, the agency responsible for processing notices of parking violations from that surplus, on receipt of that surplus, the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5.

(5) The impounding agency that has a lien on the surplus that remains upon the sale of a vehicle to which a registered owner is entitled pursuant to paragraph (4) has a deficiency claim against the registered owner for the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for all local administrative charges imposed pursuant to Section 22850.5, less the amount received from the sale of the vehicle.

(j) When a vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located.

(k) When a vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(l) When a vehicle is illegally parked on a highway in violation of a local ordinance forbidding standing or parking and the use of a highway, or a portion thereof, is necessary for the cleaning,

1 repair, or construction of the highway, or for the installation of
2 underground utilities, and signs giving notice that the vehicle may
3 be removed are erected or placed at least 24 hours prior to the
4 removal by a local authority pursuant to the ordinance.

5 (m) Wherever the use of the highway, or a portion of the
6 highway, is authorized by a local authority for a purpose other
7 than the normal flow of traffic or for the movement of equipment,
8 articles, or structures of unusual size, and the parking of a vehicle
9 would prohibit or interfere with that use or movement, and signs
10 giving notice that the vehicle may be removed are erected or placed
11 at least 24 hours prior to the removal by a local authority pursuant
12 to the ordinance.

13 (n) Whenever a vehicle is parked or left standing where local
14 authorities, by resolution or ordinance, have prohibited parking
15 and have authorized the removal of vehicles. A vehicle shall not
16 be removed unless signs are posted giving notice of the removal.

17 (o) (1) When a vehicle is found or operated upon a highway,
18 public land, or an offstreet parking facility under the following
19 circumstances:

20 (A) With a registration expiration date in excess of six months
21 before the date it is found or operated on the highway, public lands,
22 or the offstreet parking facility.

23 (B) Displaying in, or upon, the vehicle, a registration card,
24 identification card, temporary receipt, license plate, special plate,
25 registration sticker, device issued pursuant to Section 4853, or
26 permit that was not issued for that vehicle, or is not otherwise
27 lawfully used on that vehicle under this code.

28 (C) Displaying in, or upon, the vehicle, an altered, forged,
29 counterfeit, or falsified registration card, identification card,
30 temporary receipt, license plate, special plate, registration sticker,
31 device issued pursuant to Section 4853, or permit.

32 (2) When a vehicle described in paragraph (1) is occupied, only
33 a peace officer, as defined in Chapter 4.5 (commencing with
34 Section 830) of Title 3 of Part 2 of the Penal Code, may remove
35 the vehicle.

36 (3) For the purposes of this subdivision, the vehicle shall be
37 released to the owner or person in control of the vehicle only after
38 the owner or person furnishes the storing law enforcement agency
39 with proof of current registration and a currently valid driver's
40 license to operate the vehicle.

1 (4) As used in this subdivision, “offstreet parking facility” means
2 an offstreet facility held open for use by the public for parking
3 vehicles and includes a publicly owned facility for offstreet
4 parking, and a privately owned facility for offstreet parking if a
5 fee is not charged for the privilege to park and it is held open for
6 the common public use of retail customers.

7 (p) When the peace officer issues the driver of a vehicle a notice
8 to appear for a violation of Section 12500, 14601, 14601.1,
9 14601.2, 14601.3, 14601.4, 14601.5, or 14604 and the vehicle is
10 not impounded pursuant to Section 22655.5. A vehicle so removed
11 from the highway or public land, or from private property after
12 having been on a highway or public land, shall not be released to
13 the registered owner or his or her agent, except upon presentation
14 of the registered owner’s or his or her agent’s currently valid
15 driver’s license to operate the vehicle and proof of current vehicle
16 registration, or upon order of a court.

17 (q) Whenever a vehicle is parked for more than 24 hours on a
18 portion of highway that is located within the boundaries of a
19 common interest development, as defined in subdivision (c) of
20 Section 1351 of the Civil Code, and signs, as required by paragraph
21 (1) of subdivision (a) of Section 22658, have been posted on that
22 portion of highway providing notice to drivers that vehicles parked
23 thereon for more than 24 hours will be removed at the owner’s
24 expense, pursuant to a resolution or ordinance adopted by the local
25 authority.

26 (r) When a vehicle is illegally parked and blocks the movement
27 of a legally parked vehicle.

28 (s) (1) When a vehicle, except highway maintenance or
29 construction equipment, an authorized emergency vehicle, or a
30 vehicle that is properly permitted or otherwise authorized by the
31 Department of Transportation, is stopped, parked, or left standing
32 for more than eight hours within a roadside rest area or viewpoint.

33 (2) Notwithstanding paragraph (1), when a commercial motor
34 vehicle, as defined in paragraph (1) of subdivision (b) of Section
35 15210, is stopped, parked, or left standing for more than 10 hours
36 within a roadside rest area or viewpoint.

37 (3) For purposes of this subdivision, a roadside rest area or
38 viewpoint is a publicly maintained vehicle parking area, adjacent
39 to a highway, utilized for the convenient, safe stopping of a vehicle
40 to enable motorists to rest or to view the scenery. If two or more

1 roadside rest areas are located on opposite sides of the highway,
2 or upon the center divider, within seven miles of each other, then
3 that combination of rest areas is considered to be the same rest
4 area.

5 (t) When a peace officer issues a notice to appear for a violation
6 of Section 25279.

7 (u) When a peace officer issues a citation for a violation of
8 Section 11700 and the vehicle is being offered for sale.

O