

Introduced by Senator Oropeza

February 23, 2009

An act to amend Section 21100.4 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 201, as amended, Oropeza. Vehicles: illegal taxicabs.

Existing law requires a magistrate, who is presented with the affidavit of a peace officer or a designated local transportation officer establishing reasonable cause to believe that a vehicle, described by vehicle type and license number, is being operated as a taxicab or other passenger vehicle for hire in violation of the licensing requirements adopted by a local authority, to issue a warrant or order authorizing any peace officer to immediately seize and cause the removal of the vehicle. *The period of impoundment of a vehicle under this provision may not exceed 30 days.* Existing law provides that ~~such a~~ the vehicle may be released to the legal owner or his or her agent prior to the end of the ~~30 days'~~ period of impoundment if specified conditions are met.

This bill would revise these provisions to ~~require~~ *provide* that a vehicle operated as an illegal taxicab or illegally as a passenger vehicle for hire ~~may~~ *shall* not be released prior to the ~~30 days'~~ period of impoundment unless certain conditions are met.

This bill would provide that a legal owner who releases or causes the release of a vehicle to a registered owner or the person in possession of the vehicle at the time of the impound or an agent of the registered owner prior to the termination of the impoundment period shall be

subject to a fine in the amount of \$5,000 in addition to any other applicable penalties.

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 21100.4 of the Vehicle Code is amended
2 to read:

3 21100.4. (a) (1) A magistrate presented with the affidavit of
4 a peace officer or a designated local transportation officer
5 establishing reasonable cause to believe that a vehicle, described
6 by vehicle type and license number, is being operated as a taxicab
7 or other passenger vehicle for hire in violation of licensing
8 requirements adopted by a local authority under subdivision (b)
9 of Section 21100 shall issue a warrant or order authorizing the
10 peace officer or designated local transportation officer to
11 immediately seize and cause the removal of the vehicle. As used
12 in this section, “designated local transportation officer” means any
13 local public officer employed by a local authority to investigate
14 and enforce local taxicab and vehicle for hire laws and regulations.

15 (2) The warrant or court order may be entered into a
16 computerized database.

17 (3) A vehicle so impounded may be impounded for a period not
18 to exceed 30 days.

19 (4) The impounding agency, within two working days of
20 impoundment, shall send a notice by certified mail, return receipt
21 requested, to the legal owner of the vehicle, at an address obtained
22 from the department, informing the owner that the vehicle has
23 been impounded and providing the owner with a copy of the
24 warrant or court order. Failure to notify the legal owner within
25 two working days shall prohibit the impounding agency from
26 charging for more than 15 days’ impoundment when a legal owner
27 redeems the impounded vehicle.

28 (b) (1) An impounding agency shall release a vehicle to the
29 registered owner or his or her agent prior to the end of the
30 impoundment period and without the permission of the magistrate
31 authorizing the vehicle’s seizure under any of the following
32 circumstances:

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

1 (B) When the vehicle was seized under this section for an
2 offense that does not authorize the seizure of the vehicle.

3 (2) A vehicle shall not be released under this subdivision, except
4 upon presentation of the registered owner's or agent's currently
5 valid license to operate the vehicle under the licensing requirements
6 adopted by the local authority under subdivision (b) of Section
7 21100, and proof of current vehicle registration, or upon order of
8 the court.

9 (c) (1) Whenever a vehicle is impounded under this section,
10 the magistrate ordering the storage shall provide the vehicle's
11 registered and legal owners of record, or their agents, with the
12 opportunity for a poststorage hearing to determine the validity of
13 the storage.

14 (2) A notice of the storage shall be mailed or personally
15 delivered to the registered and legal owners within 48 hours after
16 issuance of the warrant or court order, excluding weekends and
17 holidays, by the person or agency executing the warrant or court
18 order, and shall include all of the following information:

19 (A) The name, address, and telephone number of the agency
20 providing the notice.

21 (B) The location of the place of storage and a description of the
22 vehicle, that shall include, if available, the name or make, the
23 manufacturer, the license plate number, and the mileage of the
24 vehicle.

25 (C) A copy of the warrant or court order and the peace officer's
26 affidavit, as described in subdivision (a).

27 (D) A statement that, in order to receive their poststorage
28 hearing, the owners, or their agents, are required to request the
29 hearing from the magistrate issuing the warrant or court order in
30 person, in writing, or by telephone, within 10 days of the date of
31 the notice.

32 (3) The poststorage hearing shall be conducted within two court
33 days after receipt of the request for the hearing.

34 (4) At the hearing, the magistrate may order the vehicle released
35 if he or she finds any of the circumstances described in subdivision
36 (b) or (e) that allow release of a vehicle by the impounding agency.

37 (5) Failure of either the registered or legal owner, or his or her
38 agent, to request, or to attend, a scheduled hearing satisfies the
39 poststorage hearing requirement.

(6) The agency employing the peace officer or designated local transportation officer who caused the magistrate to issue the warrant or court order shall be responsible for the costs incurred for towing and storage if it is determined in the poststorage hearing that reasonable grounds for the storage are not established.

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

(e) A vehicle removed and seized under subdivision (a) shall be released to the legal owner of the vehicle or the legal owner's agent prior to the end of the impoundment period and without the permission of the magistrate authorizing the seizure of the vehicle if all of the following conditions are met:

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

(2) The legal owner or the legal owner's agent pays all towing and storage fees related to the seizure of the vehicle. A lien sale processing fee shall not be charged to the legal owner who redeems the vehicle prior to the 15th day of impoundment. Neither the impounding authority nor any person having possession of the vehicle shall collect from the legal owner of the type specified in paragraph (1), or the legal owner's agent, any administrative charges imposed pursuant to Section 22850.5 unless the legal owner voluntarily requested a poststorage hearing.

(3) (A) The legal owner or the legal owner's agent presents either lawful foreclosure documents or a certificate of repossession and a security agreement or title showing proof of legal ownership for the vehicle. The documents presented may be originals, photocopies, or facsimile copies, or may be transmitted electronically. The impounding agency may not require any documents to be notarized. The impounding agency may require the agent of the legal owner to produce a photocopy or facsimile copy of its repossession agency license or registration issued pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, or to demonstrate, to the satisfaction of the impounding agency, that the agent is exempt from licensure pursuant to Section 7500.2 or 7500.3 of the Business and Professions Code.

(B) No administrative costs authorized under subdivision (a) of Section 22850.5 may be charged to the legal owner of the type specified in paragraph (1), who redeems the vehicle unless the legal owner voluntarily requests a poststorage hearing. No city, county, city and county, or state agency shall require a legal owner or a legal owner's agent to request a poststorage hearing as a requirement for release of the vehicle to the legal owner or the legal owner's agent. The impounding agency may not require any documents other than those specified in this paragraph. The impounding agency may not require any documents to be notarized.

(C) As used in this paragraph, "foreclosure documents" means an "assignment" as that term is defined in subdivision (o) of Section 7500.1 of the Business and Professions Code.

(f) (1) A legal owner or the legal owner's agent that obtains release of the vehicle pursuant to subdivision (e) may not release the vehicle to the registered owner of the vehicle or any agents of the registered owner until the termination of the impoundment period.

(2) The legal owner or the legal owner's agent may not relinquish the vehicle to the registered owner until the registered owner or that owner's agent presents his or her valid driver's license or valid temporary driver's license, and an operator's license that is in compliance with the licensing requirements adopted by the local authority under subdivision (b) of Section 21100, to the legal owner or the legal owner's agent. The legal owner or the legal owner's agent shall make every reasonable effort to ensure that the licenses presented are valid.

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

(4) A legal owner who releases or causes the release of a vehicle to a registered owner or the person in possession of the vehicle at the time of the impound or an agent of the registered owner in violation of this subdivision shall be subject to a fine in the amount of five thousand dollars (\$5,000) in addition to any other penalties established by law.

(g) Notwithstanding any other provision of this section, the registered owner and not the legal owner shall remain responsible

1 for any towing and storage charges related to the impoundment
2 and the administrative charges authorized under Section 22850.5
3 and any parking fines, penalties, and administrative fees incurred
4 by the registered owner.

5 (h) The impounding agency is not liable to the registered owner
6 for the improper release of the vehicle to the legal owner or the
7 legal owner's agent if the release complies with this section.