

Introduced by Senator OropezaFebruary 11, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1024, as introduced, Oropeza. Vehicles: tow trucks: payment of towing charges.

Existing law requires a person operating or in charge of a storage facility where vehicles are stored to accept a valid bank credit card or cash for payment of towing, storage, and related fees by a legal or registered owner or the owner's agent claiming the vehicle. A person operating or in charge of a storage facility who violates the provision is civilly liable to the owner of the vehicle or to the person who tendered the fees for 4 times the amount of the towing, storage, and related fees, but not to exceed \$500.

This bill would make technical, nonsubstantive changes 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 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

1 or other passenger vehicle for hire in violation of licensing
2 requirements adopted by a local authority under subdivision (b)
3 of Section 21100 shall issue a warrant or order authorizing the
4 peace officer or designated local transportation officer to
5 immediately seize and cause the removal of the vehicle. As used
6 in this section, “designated local transportation officer” means any
7 local public officer employed by a local authority to investigate
8 and enforce local taxicab and vehicle for hire laws and regulations.

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

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

13 (4) The impounding agency, within two working days of
14 impoundment, shall send a notice by certified mail, return receipt
15 requested, to the legal owner of the vehicle, at an address obtained
16 from the department, informing the owner that the vehicle has
17 been impounded and providing the owner with a copy of the
18 warrant or court order. Failure to notify the legal owner within
19 two working days shall prohibit the impounding agency from
20 charging for more than 15 days’ impoundment when a legal owner
21 redeems the impounded vehicle. The law enforcement agency shall
22 be open to issue a release to the registered owner or legal owner,
23 or the agent of either, whenever the agency is open to serve the
24 public for regular, nonemergency business.

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

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

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

33 (2) A vehicle ~~may~~ *shall* not be released under this subdivision,
34 except upon presentation of the registered owner’s or agent’s
35 currently valid license to operate the vehicle under the licensing
36 requirements adopted by the local authority under subdivision (b)
37 of Section 21100, and proof of current vehicle registration, or upon
38 order of the court.

39 (c) (1) Whenever a vehicle is impounded under this section,
40 the magistrate ordering the storage shall provide the vehicle’s

1 registered and legal owners of record, or their agents, with the
2 opportunity for a poststorage hearing to determine the validity of
3 the storage.

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

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

11 (B) The location of the place of storage and a description of the
12 vehicle, which shall include, if available, the name or make, the
13 manufacturer, the license plate number, and the mileage of the
14 vehicle.

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

17 (D) A statement that, in order to receive their poststorage
18 hearing, the owners, or their agents, are required to request the
19 hearing from the magistrate issuing the warrant or court order in
20 person, in writing, or by telephone, within 10 days of the date of
21 the notice.

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

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

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

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

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

38 (e) A vehicle removed and seized under subdivision (a) shall
39 be released to the legal owner of the vehicle or the legal owner's
40 agent prior to the end of the impoundment period and without the

1 permission of the magistrate authorizing the seizure of the vehicle
2 if all of the following conditions are met:

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

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

16 (B) A person operating or in charge of a storage facility where
17 vehicles are stored pursuant to this section shall accept a valid
18 bank credit card or cash for payment of towing, storage, and related
19 fees by—a *the* legal or registered owner or the owner's agent
20 claiming the vehicle. A credit card shall be in the name of the
21 person presenting the card. "Credit card" means "credit card" as
22 defined in subdivision (a) of Section 1747.02 of the Civil Code,
23 except, for the purposes of this section, credit card does not include
24 a credit card issued by a retail seller.

25 (C) A person operating or in charge of a storage facility
26 described in subparagraph (B) who violates subparagraph (B) shall
27 be civilly liable to the owner of the vehicle or to the person who
28 tendered the fees for four times the amount of the towing, storage,
29 and related fees, but not to exceed five hundred dollars (\$500).

30 (D) A person operating or in charge of a storage facility
31 described in subparagraph (B) shall have sufficient funds on the
32 premises of the primary storage facility during normal business
33 hours to accommodate, and make change in, a reasonable monetary
34 transaction.

35 (E) Credit charges for towing and storage services shall comply
36 with Section 1748.1 of the Civil Code. Law enforcement agencies
37 may include the costs of providing for payment by credit when
38 making agreements with towing companies on rates.

39 (3) (A) The legal owner or the legal owner's agent presents to
40 the law enforcement agency or impounding agency, or any person

1 acting on behalf of those agencies, a copy of the assignment, as
2 defined in subdivision (b) of Section 7500.1 of the Business and
3 Professions Code; a release from the one responsible governmental
4 agency, only if required by the agency; a government-issued
5 photographic identification card; and any one of the following as
6 determined by the legal owner or the legal owner's agent: a
7 certificate of repossession for the vehicle, a security agreement
8 for the vehicle, or title, whether paper or electronic, showing proof
9 of legal ownership for the vehicle. The law enforcement agency,
10 impounding agency, or any other governmental agency, or any
11 person acting on behalf of those agencies, shall not require the
12 presentation of any other documents.

13 (B) The legal owner or the legal owner's agent presents to the
14 person in possession of the vehicle, or any person acting on behalf
15 of the person in possession, a copy of the assignment, as defined
16 in subdivision (b) of Section 7500.1 of the Business and
17 Professions Code; a release from the one responsible governmental
18 agency, only if required by the agency; a government-issued
19 photographic identification card; and any one of the following as
20 determined by the legal owner or the legal owner's agent: a
21 certificate of repossession for the vehicle, a security agreement
22 for the vehicle, or title, whether paper or electronic, showing proof
23 of legal ownership for the vehicle. The person in possession of the
24 vehicle, or any person acting on behalf of the person in possession,
25 shall not require the presentation of any other documents.

26 (C) All presented documents may be originals, photocopies, or
27 facsimile copies, or may be transmitted electronically. The law
28 enforcement agency, impounding agency, or any person in
29 possession of the vehicle, or anyone acting on behalf of them, shall
30 not require any documents to be notarized. The law enforcement
31 agency, impounding agency, or any person acting on behalf of
32 those agencies, may require the agent of the legal owner to produce
33 a photocopy or facsimile copy of its repossession agency license
34 or registration issued pursuant to Chapter 11 (commencing with
35 Section 7500) of Division 3 of the Business and Professions Code,
36 or to demonstrate, to the satisfaction of the law enforcement
37 agency, impounding agency, or any person in possession of the
38 vehicle, or anyone acting on behalf of them, that the agent is
39 exempt from licensure pursuant to Section 7500.2 or 7500.3 of the
40 Business and Professions Code.

1 (D) ~~No~~ *The* administrative costs authorized under subdivision
2 (a) of Section 22850.5 ~~may~~ *shall not* be charged to the legal owner
3 of the type specified in paragraph (1) who redeems the vehicle
4 unless the legal owner voluntarily requests a poststorage hearing.
5 ~~No~~ A city, county, city and county, or state agency shall *not* require
6 a legal owner or a legal owner's agent to request a poststorage
7 hearing as a requirement for release of the vehicle to the legal
8 owner or the legal owner's agent. The law enforcement agency,
9 impounding agency, or any other governmental agency, or any
10 person acting on behalf of those agencies, shall not require any
11 documents other than those specified in this paragraph. The law
12 enforcement agency, impounding agency, or other governmental
13 agency, or any person acting on behalf of those agencies, ~~may~~
14 *shall not* require any documents to be notarized. The legal owner
15 or the legal owner's agent shall be given a copy of any documents
16 he or she is required to sign, except for a vehicle evidentiary hold
17 logbook. The law enforcement agency, impounding agency, or
18 any person acting on behalf of those agencies, or any person in
19 possession of the vehicle, may photocopy and retain the copies of
20 any documents presented by the legal owner or legal owner's agent.

21 (4) A failure by a storage facility to comply with any applicable
22 conditions set forth in this subdivision shall not affect the right of
23 the legal owner or the legal owner's agent to retrieve the vehicle,
24 provided all conditions required of the legal owner or legal owner's
25 agent under this subdivision are satisfied.

26 (f) (1) A legal owner or the legal owner's agent that obtains
27 release of the vehicle pursuant to subdivision (e) shall not release
28 the vehicle to the registered owner of the vehicle or the person
29 who was listed as the registered owner when the vehicle was
30 impounded or any agents of the registered owner until the
31 termination of the impoundment period.

32 (2) The legal owner or the legal owner's agent shall not
33 relinquish the vehicle to the registered owner or the person who
34 was listed as the registered owner when the vehicle was impounded
35 until the registered owner or that owner's agent presents his or her
36 valid driver's license or valid temporary driver's license, and an
37 operator's license that is in compliance with the licensing
38 requirements adopted by the local authority under subdivision (b)
39 of Section 21100, to the legal owner or the legal owner's agent.
40 The legal owner or the legal owner's agent or the person in

1 possession of the vehicle shall make every reasonable effort to
2 ensure that the licenses presented are valid and possession of the
3 vehicle will not be given to the driver who was involved in the
4 original impoundment proceeding until the expiration of the
5 impoundment period.

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

11 (4) Any legal owner who knowingly releases or causes the
12 release of a vehicle to a registered owner or the person in
13 possession of the vehicle at the time of the impoundment or any
14 agent of the registered owner in violation of this subdivision shall
15 be guilty of a misdemeanor and subject to a civil penalty in the
16 amount of two thousand dollars (\$2,000).

17 (5) The legal owner, registered owner, or person in possession
18 of the vehicle shall not change or attempt to change the name of
19 the legal owner or the registered owner on the records of the
20 department until the vehicle is released from the impoundment.

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

27 (h) The law enforcement agency and the impounding agency,
28 including any storage facility acting on behalf of the law
29 enforcement agency or impounding agency, shall comply with this
30 section and shall not be liable to the registered owner for the
31 improper release of the vehicle to the legal owner or the legal
32 owner's agent provided the release complies with the provisions
33 of this section. The legal owner shall indemnify and hold harmless
34 a storage facility from any claims arising out of the release of the
35 vehicle to the legal owner or the legal owner's agent and from any
36 damage to the vehicle after its release, including the reasonable
37 costs associated with defending any such claims. A law
38 enforcement agency shall not refuse to issue a release to a legal

- 1 owner or the agent of a legal owner on the grounds that it
- 2 previously issued a release.

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