

AMENDED IN SENATE MARCH 24, 2010

SENATE BILL

No. 1394

Introduced by Senator Kehoe

February 19, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1394, as amended, Kehoe. Vehicles: removal of unattended vehicles.

(1) Existing law authorizes a peace officer, as defined, or a regularly employed and salaried public employee, who is engaged in directing traffic or enforcing parking laws and regulations of a city, county, or jurisdiction of a state agency in which a vehicle is located, to remove and impound a vehicle located within the territorial limits in which the officer or employee may act, under specified circumstances. One of those circumstances authorizes the removal and impoundment of a vehicle when the vehicle is illegally parked so as to block the entrance to a private driveway.

This bill would instead authorize the removal or impoundment of a vehicle when the vehicle is parked so as to block the entrance to any driveway.

(2) Existing law authorizes the removal of a vehicle when the vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move the vehicle from in front of the fire hydrant to another point on the highway.

This bill would instead broaden this authority to allow for the removal or impoundment of a vehicle when a vehicle is illegally parked so as to prevent access by ~~emergency vehicles and emergency responders to~~

~~needed equipment~~ *an authorized emergency vehicle, as defined, or equipment associated with an authorized emergency vehicle, including; but not limited to, a fire hydrant, to the scene of an emergency,* and it is impracticable to move the vehicle to another point on the highway.

(3) Existing law authorizes the removal or impoundment of a vehicle when the person in charge of the vehicle is, by reason of physical injuries or illness, incapacitated to an extent so as to be unable to provide for custody or removal of the vehicle.

This bill would expand this authority to also allow for the removal and impoundment of the vehicle of a person who has a cognitive impairment to the extent that the person is unable to provide for the custody or removal of the vehicle.

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 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
7 city, county, or jurisdiction of a state agency in which a vehicle is
8 located, may remove a vehicle located within the territorial limits
9 in which the officer or employee may act, under the following
10 circumstances:
11 (a) When a vehicle is left unattended upon a bridge, viaduct, or
12 causeway or in a tube or tunnel where the vehicle constitutes an
13 obstruction to traffic.
14 (b) When a vehicle is parked or left standing upon a highway
15 in a position so as to obstruct the normal movement of traffic or
16 in a condition so as to create a hazard to other traffic upon the
17 highway.
18 (c) When a vehicle is found upon a highway or public land and
19 a report has previously been made that the vehicle is stolen or a
20 complaint has been filed and a warrant thereon is issued charging
21 that the vehicle was embezzled.

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

4 (e) When a vehicle is illegally parked so as to prevent access
5 by ~~emergency vehicles and emergency responders to needed~~
6 ~~equipment, including, but not limited to a fire hydrant an~~
7 *authorized emergency vehicle, as defined in Section 165, or*
8 *equipment associated with an authorized emergency vehicle,*
9 *including a fire hydrant, to the scene of an emergency,* and it is
10 impracticable to move the vehicle to another point on the highway.

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

16 (g) When the person in charge of a vehicle upon a highway or
17 public land is, by reason of physical injuries, cognitive impairment,
18 or illness, incapacitated to an extent so as to be unable to provide
19 for its custody or removal.

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

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

26 (i) (1) When a vehicle, other than a rented vehicle, is found
27 upon a highway or public land, or is removed pursuant to this code,
28 and it is known that the vehicle has been issued five or more notices
29 of parking violations to which the owner or person in control of
30 the vehicle has not responded within 21 calendar days of notice
31 of citation issuance or citation issuance or 14 calendar days of the
32 mailing of a notice of delinquent parking violation to the agency
33 responsible for processing notices of parking violations, or the
34 registered owner of the vehicle is known to have been issued five
35 or more notices for failure to pay or failure to appear in court for
36 traffic violations for which a certificate has not been issued by the
37 magistrate or clerk of the court hearing the case showing that the
38 case has been adjudicated or concerning which the registered
39 owner's record has not been cleared pursuant to Chapter 6
40 (commencing with Section 41500) of Division 17, the vehicle may

1 be impounded until that person furnishes to the impounding law
2 enforcement agency all of the following:

3 (A) Evidence of his or her identity.

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

6 (C) Satisfactory evidence that all parking penalties due for the
7 vehicle and all other vehicles registered to the registered owner of
8 the impounded vehicle, and all traffic violations of the registered
9 owner, have been cleared.

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

14 (3) A notice of parking violation issued for an unlawfully parked
15 vehicle shall be accompanied by a warning that repeated violations
16 may result in the impounding of the vehicle. In lieu of furnishing
17 satisfactory evidence that the full amount of parking penalties or
18 bail has been deposited, that person may demand to be taken
19 without unnecessary delay before a magistrate, for traffic offenses,
20 or a hearing examiner, for parking offenses, within the county in
21 which the offenses charged are alleged to have been committed
22 and who has jurisdiction of the offenses and is nearest or most
23 accessible with reference to the place where the vehicle is
24 impounded. Evidence of current registration shall be produced
25 after a vehicle has been impounded, or, at the discretion of the
26 impounding law enforcement agency, a notice to appear for
27 violation of subdivision (a) of Section 4000 shall be issued to that
28 person.

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

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

32 (B) Submits evidence of payment of fees as provided in Section
33 9561.

34 (C) Completes an affidavit in a form acceptable to the
35 impounding law enforcement agency stating that the vehicle was
36 not in possession of the legal owner at the time of occurrence of
37 the offenses relating to standing or parking. A vehicle released to
38 a legal owner under this subdivision is a repossessed vehicle for
39 purposes of disposition or sale. The impounding agency shall have
40 a lien on any surplus that remains upon sale of the vehicle to which

1 the registered owner is or may be entitled, as security for the full
2 amount of the parking penalties for all notices of parking violations
3 issued for the vehicle and for all local administrative charges
4 imposed pursuant to Section 22850.5. The legal owner shall
5 promptly remit to, and deposit with, the agency responsible for
6 processing notices of parking violations from that surplus, on
7 receipt of that surplus, the full amount of the parking penalties for
8 all notices of parking violations issued for the vehicle and for all
9 local administrative charges imposed pursuant to Section 22850.5.

10 (5) The impounding agency that has a lien on the surplus that
11 remains upon the sale of a vehicle to which a registered owner is
12 entitled pursuant to paragraph (4) has a deficiency claim against
13 the registered owner for the full amount of the parking penalties
14 for all notices of parking violations issued for the vehicle and for
15 all local administrative charges imposed pursuant to Section
16 22850.5, less the amount received from the sale of the vehicle.

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

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

26 (l) When a vehicle is illegally parked on a highway in violation
27 of a local ordinance forbidding standing or parking and the use of
28 a highway, or a portion thereof, is necessary for the cleaning,
29 repair, or construction of the highway, or for the installation of
30 underground utilities, and signs giving notice that the vehicle may
31 be removed are erected or placed at least 24 hours prior to the
32 removal by a local authority pursuant to the ordinance.

33 (m) Where the use of the highway, or a portion of the highway,
34 is authorized by a local authority for a purpose other than the
35 normal flow of traffic or for the movement of equipment, articles,
36 or structures of unusual size, and the parking of a vehicle would
37 prohibit or interfere with that use or movement, and signs giving
38 notice that the vehicle may be removed are erected or placed at
39 least 24 hours prior to the removal by a local authority pursuant
40 to the ordinance.

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

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

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

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

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

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

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

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

(p) When the peace officer issues the driver of a vehicle a notice to appear for a violation of Section 12500, 14601, 14601.1, 14601.2, 14601.3, 14601.4, 14601.5, or 14604 and the vehicle is not impounded pursuant to Section 22655.5. A vehicle so removed from the highway or public land, or from private property after having been on a highway or public land, shall not be released to

1 the registered owner or his or her agent, except upon presentation
2 of the registered owner's or his or her agent's currently valid
3 driver's license to operate the vehicle and proof of current vehicle
4 registration, or upon order of a court.

5 (q) When a vehicle is parked for more than 24 hours on a portion
6 of highway that is located within the boundaries of a common
7 interest development, as defined in subdivision (c) of Section 1351
8 of the Civil Code, and signs, as required by paragraph (1) of
9 subdivision (a) of Section 22658 of this code, have been posted
10 on that portion of highway providing notice to drivers that vehicles
11 parked thereon for more than 24 hours will be removed at the
12 owner's expense, pursuant to a resolution or ordinance adopted
13 by the local authority.

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

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

21 (2) Notwithstanding paragraph (1), when a commercial motor
22 vehicle, as defined in paragraph (1) of subdivision (b) of Section
23 15210, is stopped, parked, or left standing for more than 10 hours
24 within a roadside rest area or viewpoint.

25 (3) For purposes of this subdivision, a roadside rest area or
26 viewpoint is a publicly maintained vehicle parking area, adjacent
27 to a highway, utilized for the convenient, safe stopping of a vehicle
28 to enable motorists to rest or to view the scenery. If two or more
29 roadside rest areas are located on opposite sides of the highway,
30 or upon the center divider, within seven miles of each other, then
31 that combination of rest areas is considered to be the same rest
32 area.

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

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