

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1132

Introduced by Assembly Member Torrico

February 22, 2005

An act to amend Section ~~14602.6~~ 3074 of the Civil Code, and to amend Sections 14602.6 and 22851.12 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1132, as amended, Torrico. ~~Impounding vehicles: Vehicles:~~ *impounding: liens.*

~~Under~~

(1) *Under* existing law, whenever a peace officer determines that a person was driving a vehicle while that person's driving privilege was suspended or revoked or without ever having been issued a driver's license, the peace officer is authorized to either immediately arrest that person and cause the removal and seizure of that vehicle 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. In either case, under existing law that vehicle is required to be impounded for 30 days, subject to an earlier release to the registered owner under specified circumstances and an earlier release to the legal owner under other specified circumstances.

This bill would require the impounding agency to release the described impounded vehicle upon the request of the registered owner, or the legal owner or his or her agent, without subjecting the vehicle to the 30-day impoundment period and related restrictions.

(2) *Under existing law, whenever a vehicle has been removed to a garage under a peace officer's or a traffic employee's direction, and*

the keeper of the garage has mailed a specified notice or notices, the keeper of the garage has a lien dependent upon possession of the vehicle for his or her compensation for towage and storage costs. The lienholder may charge a fee for the lien-sale preparation not to exceed a certain amount based on the vehicle's value. However, this charge may not be made in the case of a vehicle redeemed prior to 72 hours from the initial storage.

Existing law establishes similar provisions in the case of a lien for making repairs or performing labor on a vehicle, or the safekeeping and parking of a vehicle.

This bill would require the allowable lien-sale preparation charge to be equal to the actual expenses incurred, but not more than specified amounts that are based on the determined value of the vehicle. The bill would also prohibit charging the fee if the vehicle is redeemed prior to 5 business days, rather than 72 hours, from the date of the initial storage.

The bill would prohibit an authorized fee or charge from attaching to the lien or from being paid until the lienholder provides documentation to the person redeeming the vehicle, demonstrating, as applicable, that (a) the lienholder has requested from the Department of Motor Vehicles the names and addresses of all persons having an interest in the vehicle; (b) the lienholder has mailed lien sale notifications to all interested parties; and (c) the lienholder or the registration service agent has possession of the required lien processing documents.

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 3074 of the Civil Code is amended to
 2 read:
 3 3074. (a) The lienholder may charge a fee equal to the actual
 4 expenses incurred for lien sale preparations, but not to exceed
 5 seventy dollars (\$70), in the case of a vehicle having a value
 6 determined to be four thousand dollars (\$4,000) or less, and not
 7 to exceed one hundred dollars (\$100), in the case of a vehicle
 8 having a value determined to be greater than four thousand
 9 dollars (\$4,000), from any person who redeems the vehicle prior
 10 to its disposal or ~~is paid through~~ *from the proceeds* a lien sale

1 ~~pursuant to~~ *conducted under* this chapter. These charges may
 2 commence and become part of the possessory lien when the
 3 lienholder requests the names and addresses of all persons having
 4 an interest in the vehicle from the Department of Motor Vehicles.
 5 Not more than 50 percent of the allowable fee may be charged
 6 until the lien sale notifications are mailed to all interested parties
 7 and the lienholder or registration service agent has possession of
 8 the required lien processing documents. ~~This charge shall not be~~
 9 ~~made in the case of any vehicle redeemed prior to 72 hours from~~
 10 ~~the initial storage.~~

11 *(b) The fee authorized under subdivision (a) does not attach to*
 12 *the lien and may not be paid until the lienholder provides*
 13 *documentation to the person redeeming the vehicle,*
 14 *demonstrating, as applicable, the following:*

15 *(1) The lienholder has requested from the Department of*
 16 *Motor Vehicles the names and addresses of all persons having an*
 17 *interest in the vehicle.*

18 *(2) The lienholder has mailed lien sale notifications to all*
 19 *interested parties.*

20 *(3) The lienholder or the registration service agent has*
 21 *possession of the required lien processing documents.*

22 *(c) The lienholder may not charge the fee authorized under*
 23 *subdivision (a) if the vehicle is redeemed prior to the five*
 24 *business days from the date of initial storage.*

25 **SECTION 1.**

26 *SEC. 2.* Section 14602.6 of the Vehicle Code is amended to
 27 read:

28 14602.6. (a) Whenever a peace officer determines that a
 29 person was driving a vehicle while his or her driving privilege
 30 was suspended or revoked or without ever having been issued a
 31 driver's license, the peace officer may either immediately arrest
 32 that person and cause the removal and seizure of that vehicle or,
 33 if the vehicle is involved in a traffic collision, cause the removal
 34 and seizure of the vehicle, without the necessity of arresting the
 35 person in accordance with Chapter 10 (commencing with Section
 36 22650) of Division 11.

37 The impounding agency, within two working days of
 38 impoundment, shall send a notice by certified mail, return receipt
 39 requested, to the legal owner of the vehicle, at the address
 40 obtained from the department, informing the owner that the

1 vehicle has been impounded. Failure to notify the legal owner
2 within two working days shall prohibit the impounding agency
3 from charging for more than 15 days' impoundment when the
4 legal owner redeems the impounded vehicle. The impounding
5 agency shall maintain a published telephone number that
6 provides information 24 hours a day regarding the impoundment
7 of vehicles and the rights of a registered owner to request a
8 hearing.

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

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

18 (d) (1) An impounding agency shall release an impounded
19 vehicle upon the request of the legal owner or his or her agent, or
20 the registered owner.

21 (2) A vehicle shall not be released pursuant to this subdivision
22 without presentation of the registered owner's, or the legal
23 owner's on his or her agent's, currently valid driver's license to
24 operate the vehicle and proof of current vehicle registration, or
25 upon order of a court.

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

30 (f) (1) The legal owner or the legal owner's agent may not
31 relinquish the vehicle to the registered owner until the registered
32 owner or that owner's agent presents his or her valid driver's
33 license or valid temporary driver's license to the legal owner or
34 the legal owner's agent. The legal owner or the legal owner's
35 agent shall make every reasonable effort to ensure that the
36 license presented is valid.

37 (2) Prior to relinquishing the vehicle, the legal owner may
38 require the registered owner to pay all towing and storage
39 charges related to the impoundment and any administrative
40 charges authorized under Section 22850.5 that were incurred by

1 the legal owner in connection with obtaining custody of the
2 vehicle.

3 (g) Notwithstanding any other provision of this section, the
4 registered owner and not the legal owner shall remain responsible
5 for any towing and storage charges related to the impoundment,
6 any administrative charges authorized under Section 22850.5,
7 and any parking fines, penalties, and administrative fees incurred
8 by the registered owner.

9 (h) The impounding agency is not liable to the registered
10 owner for the improper release of the vehicle to the legal owner
11 or the legal owner's agent provided the release complies with the
12 provisions of this section.

13 *SEC. 3. Section 22851.12 of the Vehicle Code is amended to*
14 *read:*

15 22851.12. (a) The lienholder may charge a fee *equal to the*
16 *actual expenses incurred* for lien-sale preparations, *but* not to
17 exceed seventy dollars (\$70), in the case of a vehicle having a
18 value determined to be four thousand dollars (\$4,000) or less,
19 and not to exceed one hundred dollars (\$100), in the case of a
20 vehicle having a value determined to be greater than four
21 thousand dollars (\$4,000), from any person who redeems the
22 vehicle prior to *its disposal, or is sold through from the proceeds*
23 *of a lien sale pursuant to conducted under* this chapter. These
24 charges may commence and become part of the possessory lien
25 when the lienholder requests the names and addresses of all
26 persons having an interest in the vehicle from the department.
27 Not more than 50 percent of the allowable fee may be charged
28 until the lien sale notifications are mailed to all interested parties
29 and the lienholder or the registration service agent has possession
30 of the required lien processing documents. ~~This charge shall not~~
31 ~~be made in the case of any vehicle redeemed prior to 72 hours~~
32 ~~from the initial storage.~~

33 (b) *The fee authorized under subdivision (a) does not attach to*
34 *the lien and may not be paid until the lienholder provides*
35 *documentation to the person redeeming the vehicle,*
36 *demonstrating, as applicable, the following:*

37 (1) *The lienholder has requested from the Department of*
38 *Motor Vehicles the names and addresses of all persons having an*
39 *interest in the vehicle.*

- 1 (2)The lienholder has mailed lien sale notifications to all
- 2 interested parties.
- 3 (3) The lienholder or the registration service agent has
- 4 possession of the required lien processing documents.
- 5 (c) The lienholder may not charge the fee authorized under
- 6 subdivision (a) if the vehicle is redeemed prior to five business
- 7 days from the date of the initial storage.