

ASSEMBLY BILL

No. 602

Introduced by Assembly Member DeVore

February 21, 2007

An act to amend Section 40215 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 602, as introduced, DeVore. Parking violations: issuing and processing agencies.

Under existing law governing the enforcement and processing of parking violations and penalties, an issuing agency is required to appoint or contract with qualified examiners, or administrative providers that employ qualified examiners, to conduct administrative review hearings.

This bill would prohibit an issuing agency from contracting, directly or indirectly, with a private vendor for qualified examiners or administrative hearing providers, if that vendor is providing processing services for that issuing agency.

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 40215 of the Vehicle Code is amended
2 to read:
3 40215. (a) For a period of 21 calendar days from the issuance
4 of a notice of parking violation or 14 calendar days from the
5 mailing of a notice of delinquent parking violation, a person may
6 request an initial review of the notice by the issuing agency. The

1 request may be made by telephone, in writing, or in person. There
2 shall be no charge for this review. If, following the initial review,
3 the issuing agency is satisfied that the violation did not occur, that
4 the registered owner was not responsible for the violation, or that
5 extenuating circumstances make dismissal of the citation
6 appropriate in the interest of justice, the issuing agency shall cancel
7 the notice of parking violation or notice of delinquent parking
8 violation. The issuing agency shall advise the processing agency,
9 if any, of the cancellation. The issuing agency or the processing
10 agency shall mail the results of the initial review to the person
11 contesting the notice.

12 (b) If the person is dissatisfied with the results of the initial
13 review, the person may request an administrative hearing of the
14 violation no later than 21 calendar days following the mailing of
15 the results of the issuing agency's initial review. The request may
16 be made by telephone, in writing, or in person. The person
17 requesting an administrative hearing shall deposit the amount of
18 the parking penalty with the processing agency. The issuing agency
19 shall provide a written procedure to allow a person to request an
20 administrative hearing without payment of the parking penalty
21 upon satisfactory proof of an inability to pay the amount due.
22 Notice of this procedure shall be provided to all persons requesting
23 an administrative hearing. After January 1, 1996, an administrative
24 hearing shall be held within 90 calendar days following the receipt
25 of a request for an administrative hearing, excluding time tolled
26 pursuant to this article. The person requesting the hearing may
27 request one continuance, not to exceed 21 calendar days.

28 (c) The administrative hearing process shall include the
29 following:

30 (1) The person requesting a hearing shall have the choice of a
31 hearing by mail or in person. An in-person hearing shall be
32 conducted within the jurisdiction of the issuing agency. If an
33 issuing agency contracts with an administrative provider, hearings
34 shall be held within the jurisdiction of the issuing agency or no
35 more than 21 miles outside the county.

36 (2) If the person requesting a hearing is a minor, that person
37 shall be permitted to appear at a hearing or admit responsibility
38 for the parking violation without the necessity of the appointment
39 of a guardian. The processing agency may proceed against the
40 minor in the same manner as against an adult.

1 (3) The administrative hearing shall be conducted in accordance
2 with written procedures established by the issuing agency and
3 approved by the governing body or chief executive officer of the
4 issuing agency. The hearing shall provide an independent,
5 objective, fair, and impartial review of contested parking violations.

6 (4) (A) The issuing agency's governing body or chief executive
7 officer shall appoint or contract with qualified examiners or
8 administrative hearing providers that employ qualified examiners
9 to conduct the administrative hearings. Examiners shall
10 demonstrate those qualifications, training, and objectivity necessary
11 to conduct a fair and impartial review. An examiner shall not be
12 employed, managed, or controlled by a person whose primary
13 duties are parking enforcement, parking citation, processing,
14 collection, or issuance. The examiner shall be separate and
15 independent from the citation collection or processing function.
16 An examiner's continued employment, performance evaluation,
17 compensation, and benefits shall not, directly or indirectly, be
18 linked to the amount of fines collected by the examiner.

19 (B) Examiners shall have a minimum of 20 hours of training.
20 The examiner is responsible for the costs of the training. The
21 issuing agency may reimburse the examiner for those costs.
22 Training may be provided through (i) an accredited college or
23 university, (ii) a program conducted by the Commission on Peace
24 Officer Standards and Training, (iii) American Arbitration
25 Association or a similar established organization, or (iv) through
26 any program approved by the governing board of the issuing
27 agency, including a program developed and provided by, or for,
28 the agency. Training programs may include topics relevant to the
29 administrative hearing, including, but not limited to, applicable
30 laws and regulations, parking enforcement procedures, due process,
31 evaluation of evidence, hearing procedures, and effective oral and
32 written communication. Upon the approval of the governing board
33 of the issuing agency, up to 12 hours of relevant experience may
34 be substituted for up to 12 hours of training. In addition, up to
35 eight hours of the training requirements described in this
36 subparagraph may be credited to an individual, at the discretion
37 of the governing board of the issuing agency, based upon training
38 programs or courses described in (i) to (iv), inclusive, that the
39 individual attended within the last five years.

1 (C) *An issuing agency shall not contract, directly or indirectly,*
2 *with a private vendor for either qualified examiners or*
3 *administrative hearing providers, if that vendor is providing*
4 *processing services for that issuing agency pursuant to Section*
5 *40200.5.*

6 (5) The officer or person who issues a notice of parking violation
7 shall not be required to participate in an administrative hearing.
8 The issuing agency shall not be required to produce any evidence
9 other than the notice of parking violation or copy thereof and
10 information received from the Department of Motor Vehicles
11 identifying the registered owner of the vehicle. The documentation
12 in proper form shall be prima facie evidence of the violation.

13 (6) The examiner’s decision following the administrative hearing
14 may be personally delivered to the person by the examiner or sent
15 by first-class mail.

16 (7) Following a determination by the examiner that a person
17 has committed the violation, the examiner may, consistent with
18 the written guidelines established by the issuing agency, allow
19 payment of the parking penalty in installments, or an issuing
20 agency may allow for deferred payment or allow for payments in
21 installments, if the person provides evidence satisfactory to the
22 examiner or the issuing agency, as the case may be, of an inability
23 to pay the parking penalty in full. If authorized by the governing
24 board of the issuing agency, the examiner may permit the
25 performance of community service in lieu of payment of a parking
26 penalty.

27 (d) The provisions of this section relating to the administrative
28 appeal process do not apply to an issuing agency that is a law
29 enforcement agency if the issuing agency does not also act as the
30 processing agency.