

Senate Bill No. 201

Passed the Senate September 10, 2009

Secretary of the Senate

Passed the Assembly September 8, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

SB 201, Oropeza. Vehicles: illegal taxicabs.

(1) 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 for a period of impoundment not to exceed 30 days.

Existing law also requires the impounding agency to release the vehicle to the registered or legal owner or his or her agent prior to the end of the period of impoundment and without the permission of the magistrate authorizing the seizure of the vehicle if specified conditions are met and prohibits the legal owner or his or her agent from releasing the vehicle to the registered owner until the termination of the impoundment period. Existing law also specifies when the registered or legal owner or his or her agent is responsible for paying all towing and storage charges or fees.

This bill would revise the conditions by which the impounded vehicle is required to be released to the legal owner 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.

The bill would also establish monetary transaction requirements for a person operating or in charge of a storage facility, including accepting 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. The bill would provide that the person operating or in charge of a storage facility who violates these requirements 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 a legal owner who, knowingly 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 subject to a civil penalty in the amount of \$1,250.

(2) This bill would also incorporate additional changes in Section 21100.4 of the Vehicle Code proposed by AB 515, that would become operative only if AB 515 and this bill are both chaptered and become effective on or before January 1, 2010, and this bill is chaptered last.

The people of the State of California do enact as follows:

SECTION 1. Section 21100.4 of the Vehicle Code is amended to read:

21100.4. (a) (1) A magistrate 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 licensing requirements adopted by a local authority under subdivision (b) of Section 21100 shall issue a warrant or order authorizing a peace officer or designated local transportation officer to immediately seize and cause the removal of the vehicle. As used in this section, “designated local transportation officer” means a local public officer employed by a local authority to investigate and enforce local taxicab and vehicle for hire laws and regulations.

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

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

(4) The impounding agency, within two working days of impoundment, shall send a notice by certified mail, return receipt requested, to the legal owner of the vehicle, at an address obtained from the department, informing the owner that the vehicle has been impounded and providing the owner with a copy of the warrant or court order. Failure to notify the legal owner within two working days shall prohibit the impounding agency from

charging for more than 15 days' impoundment when a legal owner redeems the impounded vehicle.

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

(A) When the vehicle is a stolen vehicle.

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

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

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

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

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

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

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

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

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

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

(5) Failure of either the registered or legal owner, or his or her agent, to request, or to attend, a scheduled hearing satisfies the 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 a copy of the assignment, as defined in subdivision (b) of Section 7500.1 of the Business and Professions Code, a release from the one responsible governmental agency, only if required by the agency; a government-issued photographic identification card; and any one of the following, as determined by the legal owner or the

legal owner's agent: a certificate of repossession for the vehicle, a security agreement for the vehicle, or title, whether paper or electronic, showing proof of legal ownership for the vehicle. Any documents presented may be originals, photocopies, or facsimile copies, or may be transmitted electronically. The law enforcement agency, impounding agency, or any other governmental agency, or any person acting on behalf of those agencies shall not require any documents to be notarized. The law enforcement agency, impounding agency, or any person acting on behalf of those agencies 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 law enforcement agency, impounding agency, or any person acting on behalf of those agencies that the agent is exempt from licensure pursuant to Section 7500.2 or 7500.3 of the Business and Professions Code.

(B) Administrative costs authorized under subdivision (a) of Section 22850.5 shall not 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. A city, county, city and county, or state agency shall not 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 law enforcement agency, impounding agency, or other governmental agency, or any person acting on behalf of those agencies, shall not require any documents other than those specified in this paragraph. The law enforcement agency, impounding agency, or other governmental agency, or any person acting on behalf of those agencies, shall not require any documents to be notarized. The legal owner or the legal owner's agent shall be given a copy of any documents he or she is required to sign, except for a vehicle evidentiary hold log book. The law enforcement agency, impounding agency, or any person acting on behalf of those agencies, or any person in possession of the vehicle, may photocopy and retain the copies of any documents presented by the legal owner or legal owner's agent.

(4) A failure by a storage facility to comply with any of the applicable conditions set forth in this subdivision shall not affect the right of the legal owner or the legal owner's agent to retrieve

the vehicle if all conditions required of the legal owner or the legal owner's agent under this subdivision are satisfied.

(f) (1) A person operating or in charge of a storage facility where vehicles are stored pursuant to this section shall 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 credit card shall be in the name of the person presenting the card. "Credit card" has the same meaning as defined in subdivision (a) of Section 1747.02 of the Civil Code, except, for purposes of this section, credit card does not include a credit card issued by a retail seller.

(2) A person operating or in charge of a storage facility described in paragraph (1) who violates that paragraph shall be civilly liable to the legal or registered owner of the vehicle or to the person who tendered the fees for four times the amount of the towing, storage, and related fees, but not to exceed five hundred dollars (\$500).

(3) A person operating or in charge of a storage facility described in paragraph (1) shall have sufficient funds on the premises of the primary storage facility during normal business hours to accommodate, and make change in, a reasonable monetary transaction.

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

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

(2) The legal owner or the legal owner's agent shall not relinquish the vehicle to the registered owner or the person who was listed as the registered owner when the vehicle was impounded 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 or the person in possession of the vehicle shall make every reasonable effort to ensure that the licenses presented are valid and that the vehicle is not released to the driver who was involved in the original impound proceeding until the expiration of the impoundment period.

(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 knowingly 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 civil penalty in the amount of one thousand two hundred fifty dollars (\$1,250).

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

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

SEC. 1.5. Section 21100.4 of the Vehicle Code is amended to read:

21100.4. (a) (1) A magistrate 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 licensing requirements adopted by a local authority under subdivision (b) of Section 21100 shall issue a warrant or order authorizing a peace officer or designated local transportation officer to immediately seize and cause the removal of the vehicle. As used in this section, "designated local transportation officer" means a local public officer employed by a local authority to investigate and enforce local taxicab and vehicle for hire laws and regulations.

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

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

(4) The impounding agency, within two working days of impoundment, shall send a notice by certified mail, return receipt requested, to the legal owner of the vehicle, at an address obtained from the department, informing the owner that the vehicle has been impounded and providing the owner with a copy of the warrant or court order. Failure to notify the legal owner within two working days shall prohibit the impounding agency from charging for more than 15 days' impoundment when a legal owner redeems the impounded vehicle. The law enforcement agency shall be open, without the necessity of making an appointment, to issue a release to the registered owner or legal owner, or the agent of either, whenever the agency is open to serve the public for regular, nonemergency business.

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

(A) When the vehicle is a stolen vehicle.

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

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

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

(2) A notice of the storage shall be mailed or personally delivered to the registered and legal owners within 48 hours after issuance of the warrant or court order, excluding weekends and

holidays, by the person or agency executing the warrant or court order, and shall include all of the following information:

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

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

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

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

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

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

(5) Failure of either the registered or legal owner, or his or her agent, to request, or to attend, a scheduled hearing satisfies the 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 security interest in the vehicle.

(2) (A) 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.

(B) A person operating or in charge of a storage facility where vehicles are stored pursuant to this section shall 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 credit card shall be in the name of the person presenting the card. "Credit card" means "credit card" as defined in subdivision (a) of Section 1747.02 of the Civil Code, except, for the purposes of this section, credit card does not include a credit card issued by a retail seller.

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

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

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

(3) (A) The legal owner or the legal owner's agent presents to the law enforcement agency or impounding agency, or any person acting on behalf of those agencies, a copy of the assignment, as defined in subdivision (b) of Section 7500.1 of the Business and Professions Code; a release from the one responsible governmental agency, only if required by the agency; a government-issued photographic identification card; and any one of the following as determined by the legal owner or the legal owner's agent: a

certificate of repossession for the vehicle, a security agreement for the vehicle, or title, whether paper or electronic, showing proof of legal ownership for the vehicle. The law enforcement agency, impounding agency, or any other governmental agency, or any person acting on behalf of those agencies, shall not require the presentation of any other documents.

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

(C) All presented documents may be originals, photocopies, or facsimile copies, or may be transmitted electronically. The law enforcement agency, impounding agency, or any person in possession of the vehicle, or anyone acting on behalf of them, shall not require any documents to be notarized. The law enforcement agency, impounding agency, or any person acting on behalf of those agencies, 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 law enforcement agency, impounding agency, or any person in possession of the vehicle, or anyone acting on behalf of them, that the agent is exempt from licensure pursuant to Section 7500.2 or 7500.3 of the Business and Professions Code.

(D) Administrative costs authorized under subdivision (a) of Section 22850.5 shall not 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. A city, county, city and county, or state agency shall not 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 law enforcement agency, impounding agency, or any other governmental agency, or any person acting on behalf of those agencies, shall not require any documents other than those specified in this paragraph. The law enforcement agency, impounding agency, or other governmental agency, or any person acting on behalf of those agencies, shall not require any documents to be notarized. The legal owner or the legal owner's agent shall be given a copy of any documents he or she is required to sign, except for a vehicle evidentiary hold log book. The law enforcement agency, impounding agency, or any person acting on behalf of those agencies, or any person in possession of the vehicle, may photocopy and retain the copies of any documents presented by the legal owner or legal owner's agent.

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

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

(2) The legal owner or the legal owner's agent shall not relinquish the vehicle to the registered owner or the person who was listed as the registered owner when the vehicle was impounded 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 or the person in possession of the vehicle shall make every reasonable effort to ensure that the licenses presented are valid and possession of the vehicle will not be given to the driver who was involved in the original impound proceeding until the expiration of the impoundment period.

(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 knowingly 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 guilty of a misdemeanor and subject to a civil penalty in the amount of one thousand two hundred fifty dollars (\$1,250).

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

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

(h) The law enforcement agency and the impounding agency, including any storage facility acting on behalf of the law enforcement agency or impounding agency, shall comply with this section and shall not be liable to the registered owner for the improper release of the vehicle to the legal owner or the legal owner's agent provided the release complies with the provisions of this section. The legal owner shall indemnify and hold harmless a storage facility from any claims arising out of the release of the vehicle to the legal owner or the legal owner's agent and from any damage to the vehicle after its release, including the reasonable costs associated with defending any such claims. A law enforcement agency shall not refuse to issue a release to a legal owner or the agent of a legal owner on the grounds that it previously issued a release.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 21100.4 of the Vehicle Code proposed by both this bill and AB 515. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2010, (2) each bill amends Section 21100.4 of the Vehicle Code, and (3)

this bill is enacted after AB 515, in which case Section 1 of this bill shall not become operative.

Approved _____, 2009

Governor