

ASSEMBLY BILL

No. 335

Introduced by Assembly Member Brown

February 13, 2013

An act to amend Section 14602.6 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 335, as introduced, Brown. Vehicles: impoundment.

Existing law authorizes a peace officer who determines that a person was driving a vehicle while his or her driving privilege was suspended or revoked, driving in violation of a driver's license restriction requiring that person to operate a vehicle that is equipped with a functioning, certified ignition interlock device, or driving a vehicle without ever having been issued a driver's license, 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.

This bill would prohibit a peace officer from impounding the vehicle if the vehicle could be or is legally parked at a location near the traffic stop, if control of the vehicle is relinquished to a licensed driver who is present and authorized by the driver to take the vehicle, or if a licensed driver retrieves the vehicle within a reasonable time. The bill would also require the peace officer to inform the driver that the vehicle will not be towed and impounded if the vehicle could be or is legally parked at a location near the traffic stop, if control of the vehicle is relinquished to a licensed driver who is present and authorized by the driver to take the vehicle, or if a licensed driver can retrieve the vehicle within a reasonable amount of time.

By imposing additional duties on local law enforcement entities, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 14602.6 of the Vehicle Code is amended
2 to read:

3 14602.6. (a) (1) ~~Whenever~~*Except as provided in paragraph*
4 *(3), if a peace officer determines that a person was driving a vehicle*
5 *while his or her driving privilege was suspended or revoked,*
6 *driving a vehicle while his or her driving privilege is restricted*
7 *pursuant to Section 13352 or 23575 and the vehicle is not equipped*
8 *with a functioning, certified interlock device, or driving a vehicle*
9 *without ever having been issued a driver’s license, the peace officer*
10 *may either immediately arrest that person and cause the removal*
11 *and seizure of that vehicle or, if the vehicle is involved in a traffic*
12 *collision, cause the removal and seizure of the vehicle without the*
13 *necessity of arresting the person in accordance with Chapter 10*
14 *(commencing with Section 22650) of Division 11. A vehicle so*
15 *impounded shall be impounded for 30 days.*

16 (2) The impounding agency, within two working days of
17 impoundment, shall send a notice by certified mail, return receipt
18 requested, to the legal owner of the vehicle, at the address obtained
19 from the department, informing the owner that the vehicle has
20 been impounded. Failure to notify the legal owner within two
21 working days shall prohibit the impounding agency from charging
22 for more than 15 days’ impoundment when the legal owner
23 redeems the impounded vehicle. The impounding agency shall
24 maintain a published telephone number that provides information
25 24 hours a day regarding the impoundment of vehicles and the
26 rights of a registered owner to request a hearing. The law

1 enforcement agency shall be open to issue a release to the registered
2 owner or legal owner, or the agent of either, whenever the agency
3 is open to serve the public for regular, nonemergency business.

4 (3) *A peace officer shall not impound a vehicle subject to*
5 *impoundment, pursuant to paragraph (1), if the vehicle could be*
6 *or is legally parked at a location near the traffic stop, if control*
7 *of the vehicle is relinquished to a licensed driver who is present*
8 *and authorized by the driver to take the vehicle, or if a licensed*
9 *driver retrieves the vehicle within a reasonable amount of time.*
10 *The peace officer shall inform the driver that the vehicle will not*
11 *be towed and impounded if the vehicle could be or is legally parked*
12 *at a location near the traffic stop, if control of the vehicle is*
13 *relinquished to a licensed driver who is present and authorized*
14 *by the driver to take the vehicle, or if a licensed driver can retrieve*
15 *the vehicle within a reasonable amount of time.*

16 (b) The registered and legal owner of a vehicle that is removed
17 and seized under *paragraph (1) of subdivision (a)* or their agents
18 shall be provided the opportunity for a storage hearing to determine
19 the validity of, or consider any mitigating circumstances attendant
20 to, the storage, in accordance with Section 22852.

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

24 (d) (1) An impounding agency shall release a vehicle to the
25 registered owner or his or her agent prior to the end of 30 days'
26 impoundment under any of the following circumstances:

27 (A) ~~When~~*If* the vehicle is a stolen vehicle.

28 (B) ~~When~~*If* the vehicle is subject to bailment and is driven by
29 an unlicensed employee of a business establishment, including a
30 parking service or repair garage.

31 (C) ~~When~~*If* the license of the driver was suspended or revoked
32 for an offense other than those included in Article 2 (commencing
33 with Section 13200) of Chapter 2 of Division 6 or Article 3
34 (commencing with Section 13350) of Chapter 2 of Division 6.

35 (D) ~~When~~*If* the vehicle was seized under this section for an
36 offense that does not authorize the seizure of the vehicle.

37 (E) ~~When~~*If* the driver reinstates his or her driver's license or
38 acquires a driver's license and proper insurance.

39 (2) ~~No~~*A* vehicle shall *not* be released pursuant to this
40 subdivision without presentation of the registered owner's or

1 agent’s currently valid driver’s license to operate the vehicle and
 2 proof of current vehicle registration, or upon order of a court.

3 (e) The registered owner or his or her agent is responsible for
 4 all towing and storage charges related to the impoundment, and
 5 any administrative charges authorized under Section 22850.5.

6 (f) A vehicle removed and seized under *paragraph (1) of*
 7 subdivision (a) shall be released to the legal owner of the vehicle
 8 or the legal owner’s agent prior to the end of 30 days’
 9 impoundment if all of the following conditions are met:

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

14 (2) (A) The legal owner or the legal owner’s agent pays all
 15 towing and storage fees related to the seizure of the vehicle. ~~No A~~
 16 ~~lien sale processing fees~~ *fee* shall *not* be charged to the legal owner
 17 who redeems the vehicle prior to the 15th day of impoundment.
 18 Neither the impounding authority nor any person having possession
 19 of the vehicle shall collect from the legal owner of the type
 20 specified in paragraph (1), or the legal owner’s agent any
 21 administrative charges imposed pursuant to Section 22850.5 unless
 22 the legal owner voluntarily requested a poststorage hearing.

23 (B) A person operating or in charge of a storage facility where
 24 vehicles are stored pursuant to this section shall accept a valid
 25 bank credit card or cash for payment of towing, storage, and related
 26 fees by a legal or registered owner or the owner’s agent claiming
 27 the vehicle. A credit card shall be in the name of the person
 28 presenting the card. “Credit card” means “credit card” as defined
 29 in subdivision (a) of Section 1747.02 of the Civil Code, except,
 30 for the purposes of this section, credit card does not include a credit
 31 card issued by a retail seller.

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

37 (D) A person operating or in charge of a storage facility
 38 described in subparagraph (B) shall have sufficient funds on the
 39 premises of the primary storage facility during normal business

1 hours to accommodate, and make change in, a reasonable monetary
2 transaction.

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

7 (3) The legal owner or the legal owner's agent presents a copy
8 of the assignment, as defined in subdivision (b) of Section 7500.1
9 of the Business and Professions Code; a release from the one
10 responsible governmental agency, only if required by the agency;
11 a government-issued photographic identification card; and any
12 one of the following, as determined by the legal owner or the legal
13 owner's agent: a certificate of repossession for the vehicle, a
14 security agreement for the vehicle, or title, whether paper or
15 electronic, showing proof of legal ownership for the vehicle. Any
16 documents presented may be originals, photocopies, or facsimile
17 copies, or may be transmitted electronically. The law enforcement
18 agency, impounding agency, or any other governmental agency,
19 or any person acting on behalf of those agencies, shall not require
20 any documents to be notarized. The law enforcement agency,
21 impounding agency, or any person acting on behalf of those
22 agencies may require the agent of the legal owner to produce a
23 photocopy or facsimile copy of its repossession agency license or
24 registration issued pursuant to Chapter 11 (commencing with
25 Section 7500) of Division 3 of the Business and Professions Code,
26 or to demonstrate, to the satisfaction of the law enforcement
27 agency, impounding agency, or any person acting on behalf of
28 those agencies, that the agent is exempt from licensure pursuant
29 to Section 7500.2 or 7500.3 of the Business and Professions Code.

30 ~~No~~

31 *The* administrative costs authorized under subdivision (a) of
32 Section 22850.5 shall *not* be charged to the legal owner of the type
33 specified in paragraph (1), who redeems the vehicle unless the
34 legal owner voluntarily requests a poststorage hearing. ~~No~~ A city,
35 county, city and county, or state agency shall *not* require a legal
36 owner or a legal owner's agent to request a poststorage hearing as
37 a requirement for release of the vehicle to the legal owner or the
38 legal owner's agent. The law enforcement agency, impounding
39 agency, or other governmental agency, or any person acting on
40 behalf of those agencies, shall not require any documents other

1 than those specified in this paragraph. The law enforcement agency,
2 impounding agency, or other governmental agency, or any person
3 acting on behalf of those agencies, shall not require any documents
4 to be notarized. The legal owner or the legal owner's agent shall
5 be given a copy of any documents he or she is required to sign,
6 except for a vehicle evidentiary hold logbook. The law enforcement
7 agency, impounding agency, or any person acting on behalf of
8 those agencies, or any person in possession of the vehicle, may
9 photocopy and retain the copies of any documents presented by
10 the legal owner or legal owner's agent.

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

16 (g) (1) A legal owner or the legal owner's agent that obtains
17 release of the vehicle pursuant to subdivision (f) shall not release
18 the vehicle to the registered owner of the vehicle, or the person
19 who was listed as the registered owner when the vehicle was
20 impounded, or any agents of the registered owner, unless the
21 registered owner is a rental car agency, until after the termination
22 of the 30-day impoundment period.

23 (2) The legal owner or the legal owner's agent shall not
24 relinquish the vehicle to the registered owner or the person who
25 was listed as the registered owner when the vehicle was impounded
26 until the registered owner or that owner's agent presents his or her
27 valid driver's license or valid temporary driver's license to the
28 legal owner or the legal owner's agent. The legal owner or the
29 legal owner's agent or the person in possession of the vehicle shall
30 make every reasonable effort to ensure that the license presented
31 is valid and possession of the vehicle will not be given to the driver
32 who was involved in the original impoundment proceeding until
33 the expiration of the impoundment period.

34 (3) Prior to relinquishing the vehicle, the legal owner may
35 require the registered owner to pay all towing and storage charges
36 related to the impoundment and any administrative charges
37 authorized under Section 22850.5 that were incurred by the legal
38 owner in connection with obtaining custody of the vehicle.

39 (4) Any legal owner who knowingly releases or causes the
40 release of a vehicle to a registered owner or the person in

1 possession of the vehicle at the time of the impoundment or any
2 agent of the registered owner in violation of this subdivision shall
3 be guilty of a misdemeanor and subject to a fine in the amount of
4 two thousand dollars (\$2,000) in addition to any other penalties
5 established by law.

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

10 (h) (1) A vehicle removed and seized under *paragraph (1) of*
11 *subdivision (a)* shall be released to a rental car agency prior to the
12 end of 30 days' impoundment if the agency is either the legal
13 owner or registered owner of the vehicle and the agency pays all
14 towing and storage fees related to the seizure of the vehicle.

15 (2) The owner of a rental vehicle that was seized under this
16 section may continue to rent the vehicle upon recovery of the
17 vehicle. However, the rental car agency may not rent another
18 vehicle to the driver of the vehicle that was seized until 30 days
19 after the date that the vehicle was seized.

20 (3) The rental car agency may require the person to whom the
21 vehicle was rented to pay all towing and storage charges related
22 to the impoundment and any administrative charges authorized
23 under Section 22850.5 that were incurred by the rental car agency
24 in connection with obtaining custody of the vehicle.

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

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

1 costs associated with defending any such claims. A law
2 enforcement agency shall not refuse to issue a release to a legal
3 owner or the agent of a legal owner on the grounds that it
4 previously issued a release.

5 SEC. 2. If the Commission on State Mandates determines that
6 this act contains costs mandated by the state, reimbursement to
7 local agencies and school districts for those costs shall be made
8 pursuant to Part 7 (commencing with Section 17500) of Division
9 4 of Title 2 of the Government Code.