

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 718

Introduced by Assembly Member Chu

February 25, 2015

An act to ~~amend Section 14602.6 of~~ *add Sections 22506.5 and 22651.06* to the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 718, as amended, Chu. Vehicles: ~~impounded vehicles.~~ *parking citations and impoundment.*

Existing law regulates the stopping, parking, or leaving of vehicles on highways and off-street parking facilities, and also authorizes local authorities, by ordinance or resolution, to regulate the parking of vehicles on highways, if the ordinance or resolution is first approved by the Department of Transportation. Existing law further authorizes the impoundment of a vehicle that is parked where local authorities, by resolution or ordinance, have prohibited parking, or when the vehicle has been issued 5 or more notices of parking violations to which the owner or person in control of the vehicle has not responded within 21 calendar days, as specified.

This bill would prohibit a peace officer or an employee of a city or county from issuing a parking citation to the owner or person in control of a vehicle, or from impounding a vehicle, on the basis that the owner or other person is sleeping in the vehicle, if the vehicle is otherwise lawfully parked.

~~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, or~~

driving a vehicle without ever having been issued a driver’s license, to cause the removal and seizure of the vehicle. Existing law requires a 30-day impoundment period for seized vehicles, subject to exceptions allowing earlier release.

This bill would make technical, nonsubstantive changes to these provisions.

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 22506.5 is added to the Vehicle Code, to
2 read:

3 22506.5. A peace officer, or a regularly employed and salaried
4 employee of a city or county who is engaged in directing traffic
5 or enforcing parking laws, shall not issue a parking citation to the
6 owner or person in control of a vehicle for sleeping in the vehicle,
7 if the vehicle is otherwise lawfully parked.

8 SEC. 2. Section 22651.06 is added to the Vehicle Code, to
9 read:

10 22651.06. A peace officer, or a regularly employed and salaried
11 employee of a city or county who is engaged in directing traffic
12 or enforcing parking laws, shall not remove and impound a vehicle
13 on the basis that the owner or person in control of the vehicle is
14 sleeping in the vehicle, if the vehicle is otherwise lawfully parked.

15 SECTION 1. ~~Section 14602.6 of the Vehicle Code is amended~~
16 ~~to read:~~

17 ~~14602.6. (a) (1) If a peace officer determines that a person~~
18 ~~was driving a vehicle while his or her driving privilege was~~
19 ~~suspended or revoked, driving a vehicle while his or her driving~~
20 ~~privilege is restricted pursuant to Section 13352 or 23575 and the~~
21 ~~vehicle is not equipped with a functioning, certified interlock~~
22 ~~device, or driving a vehicle without ever having been issued a~~
23 ~~driver’s license, the peace officer may either immediately arrest~~
24 ~~that person and cause the removal and seizure of that vehicle or,~~
25 ~~if the vehicle is involved in a traffic collision, cause the removal~~
26 ~~and seizure of the vehicle without the necessity of arresting the~~
27 ~~person in accordance with Chapter 10 (commencing with Section~~
28 ~~22650) of Division 11. A vehicle impounded pursuant to this~~
29 ~~paragraph shall be impounded for 30 days.~~

1 ~~(2) The impounding agency, within two working days of~~
2 ~~impoundment, shall send a notice by certified mail, return receipt~~
3 ~~requested, to the legal owner of the vehicle, at the address obtained~~
4 ~~from the department, informing the owner that the vehicle has~~
5 ~~been impounded. Failure to notify the legal owner within two~~
6 ~~working days shall prohibit the impounding agency from charging~~
7 ~~for more than 15 days' impoundment when the legal owner~~
8 ~~redeems the impounded vehicle. The impounding agency shall~~
9 ~~maintain a published telephone number that provides information~~
10 ~~24 hours a day regarding the impoundment of vehicles and the~~
11 ~~rights of a registered owner to request a hearing. The law~~
12 ~~enforcement agency shall be open to issue a release to the registered~~
13 ~~owner or legal owner, or the agent of either, whenever the agency~~
14 ~~is open to serve the public for regular, nonemergency business.~~

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

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

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

26 ~~(A) The vehicle is a stolen vehicle.~~

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

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

34 ~~(D) The vehicle was seized pursuant to this section for an~~
35 ~~offense that does not authorize the seizure of the vehicle.~~

36 ~~(E) The driver reinstates his or her driver's license or acquires~~
37 ~~a driver's license and proper insurance.~~

38 ~~(2) A vehicle shall not be released pursuant to this subdivision~~
39 ~~without presentation of the registered owner's or agent's currently~~

1 valid driver's license to operate the vehicle and proof of current
2 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 pursuant to subdivision (a)
7 shall be released to the legal owner of the vehicle or the legal
8 owner's agent prior to the end of 30 days' impoundment if all of
9 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
16 lien sale processing fees shall be charged to the legal owner who
17 redeems the vehicle prior to the 15th day of impoundment. Neither
18 the impounding authority nor any person having possession of the
19 vehicle shall collect from the legal owner of the type specified in
20 paragraph (1), or the legal owner's agent, any administrative
21 charges imposed pursuant to Section 22850.5 unless the legal
22 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) (A) The legal owner or the legal owner's agent presents a
8 copy of the assignment, as defined in subdivision (b) of Section
9 7500.1 of the Business and Professions Code, a release from the
10 one responsible governmental agency, only if required by the
11 agency, a government-issued photographic identification card, and
12 any one of the following, as determined by the legal owner or the
13 legal owner's agent: a certificate of repossession for the vehicle,
14 a 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 (B) Administrative costs authorized under subdivision (a) of
31 Section 22850.5 shall not be charged to the legal owner of the type
32 specified in paragraph (1) who redeems the vehicle unless the legal
33 owner voluntarily requests a poststorage hearing. A city, county,
34 city and county, or state agency shall not require a legal owner or
35 a legal owner's agent to request a poststorage hearing as a
36 requirement for release of the vehicle to the legal owner or the
37 legal owner's agent. The law enforcement agency, impounding
38 agency, or other governmental agency, or any person acting on
39 behalf of those agencies, shall not require any documents other
40 than those specified in this paragraph. The law enforcement agency,

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

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

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

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

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

38 (4) Any legal owner who knowingly releases or causes the
 39 release of a vehicle to a registered owner or the person in
 40 possession of the vehicle at the time of the impoundment or any

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

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

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

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

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

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

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

1 ~~enforcement agency shall not refuse to issue a release to a legal~~
2 ~~owner or the agent of a legal owner on the grounds that it~~
3 ~~previously issued a release.~~

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