
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: AB 1082 **Hearing Date:** July 11, 2023
Author: Kalra
Version: June 29, 2023
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Authority to remove vehicles*

HISTORY

Source: End Poverty in California (EPIC)
FreeFrom
Lawyers' Committee for Civil Rights (LCCR)
Western Center on Law and Poverty (WCLP)

Prior Legislation: None

Support: ACLU California Action; Asian Americans Advancing Justice-Southern California; California Partnership to End Domestic Violence; California Public Defenders Association; Californians for Safety and Justice; Center for Responsible Lending; Communities United for Restorative Youth Justice (CURYJ); Consumers for Auto Reliability & Safety; Courage California; Disability Rights California; Drug Policy Alliance; East Bay Community Law Center; Ella Baker Center for Human Rights; Equal Rights Advocates; Family Violence Appellate Project; GLIDE; Grace Institute – End Child Poverty in California; Indivisible CA Statestrong; Initiate Justice (UNREG); Initiate Justice Acton; Public Counsel; Smart Justice California; Techequity Collaborative; Voices for Progress Education Fund

Opposition: California Association of Code Enforcement; California Mobility and Parking Association; California Police Chiefs Association; California State Sheriffs' Association; Chico Police Department; City of La Mirada; City of Lakewood; City of Santa Monica Department of Transportation; Peace Officers Research Association of California (PORAC); City of Tustin (unless amended)

Assembly Floor Vote: 47 - 14

PURPOSE

The purpose of this bill is to limit the authority to tow or immobilize a vehicle for having five or more unpaid parking or traffic tickets to only apply to higher education institutions. This bill also reforms requirements on processing agencies to offer payment plans for parking tickets in order to use the Department of Motor Vehicles for collection purposes.

Existing law authorizes a peace officer or other traffic enforcer of a local jurisdiction to remove or immobilize a vehicle if it has five or more unpaid parking or traffic tickets. (Vehicle Code Section §§22651 and 22651.7)

Existing law authorizes law enforcement officers to remove a vehicle if they are unable to release the vehicle to the registered owner or a driver authorized by that owner after a traffic stop or a sobriety checkpoint. (Vehicle Code §§2810.2 and 2814.2)

Existing law authorizes a peace officer or other traffic enforcer of a local jurisdiction to remove a vehicle in many circumstances, including if a vehicle is: (Vehicle Code §22651)

- a) Left unattended upon a bridge, viaduct, causeway, or tunnel where the vehicle obstructs traffic;
- b) Parked on the highway so as to obstruct traffic or creates a hazard;
- c) Found upon a highway or public land and a report has been made that the vehicle is stolen or embezzled;
- d) Illegally parked to prevent access to a private driveway or to firefighting equipment and is impractical to move;
- e) Stopped or parked for more than four hours upon the right-of-way of a freeway and the driver cannot move the vehicle;
- f) Without an operator because the person in charge of the vehicle became incapacitated and unable to provide for its custody or removal;
- g) Without an operator because the person driving the vehicle was taken into custody;
- h) Parked or left standing on a highway for 72 or more consecutive hours in violation of a local ordinance;
- i) Parked or left standing where local authorities have prohibited parking and authorized vehicle removal through resolution or ordinance; or
- j) Found with a registration expiration date over six months expired, displaying registration or identification issued for a different vehicle, or is operating using autonomous technology without a valid permit;

Existing law authorizes the impounding of vehicles for unpaid traffic or parking tickets until the owner provides proof of payment of the tickets and authorizes the lien sale of impounded vehicles should payments not be made in a specified time. (Vehicle Code §22651)

Existing law authorizes the Department of Motor Vehicles (DMV) to refuse to renew the registration of a vehicle if the owner or lessee has not paid parking penalties and administrative fees (Vehicle Code §47600)

Existing law provides several options to processing agencies collecting unpaid parking tickets, including filing an itemization of unpaid parking penalties and service fees with the DMV for collection with registration, so long as the agency: (Vehicle Code §40220)

- a) Provides a payment plan option for indigent persons that allows unpaid parking fines and fees to be paid off in monthly installments of no more than \$25 for total amounts due that are \$500 or less, in a period within 24 months;
- b) Waives all late fees and penalty assessments, exclusive of any state surcharges, if an indigent person enrolls in the payment plan. Waived fees and penalties may be reinstated if the person falls out of compliance with the payment plan;

- c) Limits the processing fee to participate in a payment plan to \$5 or less for indigent persons and \$25 or less for all other persons;
- d) Allows the application for indigence determination for a period of 120 days from the issuance of a notice of a parking violation, or 10 days after the administrative hearing determination, whichever is later;

Existing law requires processing agencies to rescind a filing of itemization of penalties and fees for an indigent person for one time only, if they enroll in a payment plan and pay a late fee of no more than \$5.

Existing law requires processing agencies to allow a registered owner or lessee who falls out of compliance with a payment plan a one-time extension of 45 days from the date the plan becomes delinquent to resume payments before filing an itemization of unpaid penalties and service fees with the DMV.

Existing law requires a processing agency to provide information about its payment plans and the program on its internet website and via a phone number.

Existing law defines “indigent” for the purposes of this payment program to mean anyone who meets the income requirements for, or is currently on, Supplemental Security Income, Supplemental nutrition Assistance Program, Medi-Cal, or In Home Support Services.

This bill eliminates the ability to remove a vehicle from an offstreet facility because it has five or more parking tickets.

This bill limits the authority to remove or immobilize vehicles due to having six or more parking or traffic violations to traffic agents of public higher educational institutions. Such as the University of California, California State University, and the California Community Colleges.

This bill limits various sections related to notice requirements and lien sales related to vehicles impounded for unpaid parking and traffic tickets to only apply to higher education institutions. Allows all local authorities to conduct lien sales of vehicles by impounded prior to January 1, 2024.

This bill only permits processing agencies, except for higher education institutions, to file itemizations of unpaid parking penalties and service fees with the DMV for collection with registration if there are six or more unpaid parking tickets. Higher education institutions may file itemizations with any number of unpaid tickets.

This bill prohibits the DMV, beginning in January 1, 2027, from refusing to renew the registration of a vehicle due to outstanding parking tickets unless the registered owner or lessee has six or more unpaid tickets.

This bill modifies the requirements for processing agencies to be able to use the DMV for collection purposes requiring the agencies to:

- a) Eliminate the current \$500 cap on the total amount of unpaid penalties the agency must offer installment payment plans to indigent persons;

- b) Provide a process to waive an unpaid parking penalty or related fee for a vehicle if the registered owner is indigent and was in custody when the penalty was pending;
- c) Offer a payment plan option for non-indigent persons that allows payment of an unpaid parking penalty and related fees in monthly installments over at least 12 months;
- d) Allow for automatic payments in the payment plans;
- e) Set no deadline following issuance of a parking ticket to request to participate in the payment plan.
- f) Mail courtesy warnings sixty days prior to filing itemization with the DMV for collection. This warning shall include information about the availability of payment plans and a website link and telephone number that provides more information about the plans;
- g) Provide on its website information on the availability and eligibility requirements of payment plans, how to request an indigency determination, and how to request a waiver of unpaid parking penalties;

This bill requires processing agencies to allow an indigent person who falls out of compliance with a payment plan at least four extensions of 45 days to resume payments before filing an itemization of unpaid penalties with the DMV.

This bill requires processing agencies to rescind the filing of an itemization of unpaid parking penalties and related fees an unlimited number of times if the registered owner or lessee enrolls in a payment plan and pays a late fee of at most \$5.

COMMENTS

1. Need for This Bill

According to the author:

California has been a national leader in ending policies that disproportionately punish people experiencing poverty, recognizing that these laws do not make individuals more likely to pay but instead trap them in debt and create barriers to financial stability. Vehicle tows and immobilizations result in snowballing consequences that threaten people's stability and well-being, as well as undermine our state's economic equity goals. AB 1082 will help cities actually collect unpaid ticket fees and allow California to continue leading the way in ending poverty tows so that working families can continue to drive to work, pay their rent and bills, and provide for their families.

2. Parking enforcement

If a vehicle consistently violates parking laws California law authorizes local enforcers to immobilize, tow, or eventually impound the vehicle. If the vehicle remains unclaimed and no payment plan is entered into local agencies may perform a lien sale to recoup costs of towing and storing. If a vehicle is not removed but has outstanding parking violations an authority may also use the DMV to collect the delinquent penalties at the time of the vehicles next registration. In order to do this the authority must comply with several rules regarding offering payment plan options for the penalties, including options for indigent people that carry no late fees.

According to the DMV there are currently 692 parking agencies that may report tickets to DMV for collection with the annual registration renewal. Using a 5-year average, DMV estimates it has received approximately 1.8 million parking tickets annually. Approximately 30-40% of the parking tickets reported to DMV annually are collected by DMV during the registration renewal, as people may instead pay the parking agency directly. The DMV collected approximately \$81.7 million in total parking citation bail in FY 2021/22.

Research shows that removal and impoundment of a vehicle is an effective deterrent to illegal behavior. According to the Center for Disease Control, several studies indicate that impounding a vehicle reduces rates of recidivism for driving under the influence.

However while removal and impoundment may be effective deterrents they often can be costly. Owners are more likely to abandon vehicles with a lower resale value so that the associated towing and storage fees can be greater than the city can recoup through a lien sale. According to a 2022 report by the Auditor of the City of San Diego, found their towing program cost the city about \$1.5 million dollars a year. They also found that 27 percent of all tows resulted in a lien sale, leading to unrecoverable costs.

This bill removes the ability of local parking agencies to tow or immobilize a vehicle to tow or immobilize a vehicle, This bill will also make it impossible to enforce payment of tickets on out-of-state vehicles. Without a California vehicle registration local agencies lack an enforcement mechanism.

3. Towed into debt: How Towing Practices in California Punish Poor People.

A report published in 2019 by 17 legal services, public interest law, and public policy and advocacy groups notes how California's cities attempts to regulate parking have resulted in disproportionate punishments for low income individuals. Based on an analysis of eight California cities, the report estimated that one fourth of all tows conducted are because the owner had unpaid parking or traffic tickets, lapsed registration, or for being parked in one place for 72 hours. Vehicles towed for these reasons are 2 to 6 times more likely to be sold at a lien sale than the average towed cars. The report noted that 50% of the vehicles towed in San Francisco for unpaid parking tickets and 57% of the vehicles towed for lapsed registration were sold by the tow companies, compared to only 9% of other vehicles that were towed for other reasons. In 2016, the City of San Francisco ordered more than 42,000 tows and sold more than 5,300 vehicles in lien sales. In total, the report estimated that public agencies in California towed nearly one million vehicles in 2016.

Recovering a vehicle after it has been towed is expensive. *Towed into Debt* notes that the average tow fee in California at the time the report was published was \$189, with a \$53 storage fee per day and a \$150 administrative fee. After three days of storage a towing fee could come out to \$499. If a vehicle was towed for having five or more unpaid parking violations or for vehicle registration purposes, the individual most also pay the unpaid parking debt and vehicle registration before they can retrieve their vehicle. For indigent individuals, fees accumulating on top of one another can create a cycle of debt where they are unable to pay back parking fines, and then receive additional fines for driving an unregistered vehicle and an increased vehicle registration fee for late payments. If their vehicle is then towed and impounded they likely will

not be able to recover their vehicle, which may serve as their home or as an important resource for pursuing a job.

In recognition that these rates have the greatest negative impact on low-income individuals, some localities have considered payment alternatives. For example, the City of San Francisco in 2018 implemented a payment installment plan and certain fee waivers for qualified low-income individuals. The Legislature has also taken action. In 2015, SB 405 (Hertzberg, Chapter 385, Statutes of 2015) eliminated the requirement to pay all penalties and fines for certain traffic violations up front and allowed an individual to schedule a court hearing prior to payment. In 2017, AB 503, Lackey, (Chapter 741, Statutes of 2017) gave indigent persons the opportunity to pay down unpaid parking citations through an installment plan.

The statutory income threshold for indigency is– 125% or less of the federal poverty guidelines. Currently that income for a one-person household is \$12,880 making the threshold for indigency \$16,100 a year.

4. Changes to payment plans

Currently if an authority wishes to use the DMV to collect delinquent parking fees they must offer a payment plan total penalties up to \$500 for indigent persons in monthly installments of no more than \$25 over a period of 24 months. This bill would expand the requirement to offer a payment plan to all individuals, though it provides no requirement on the payment structure for non-indigent individuals. For indigent people this bill would remove the \$500 cap the payment plan must apply to, but retain the requirement of \$25 monthly installments over a maximum of 24 months. In effect this will cap the amount of fees a processing agency can claim from an indigent person at \$600 – twenty-four payments of \$25.

5. Authority to tow an ability to collect penalties.

In addition to provisions adding increased flexibility for indigent people this bill narrows the authority to tow, immobilize, and use the DMV to collect penalties from all people who have four or fewer outstanding tickets. It also requires the creation of monthly payment plans for nonindigent people if the agency wishes to collect through the DMV, though it sets no limit on the amount of payment in those plans. The threshold for being classified as indigent is quite low, so this policy will likely help low-income people from avoiding cycles of poverty. However it will also arguably help people who have no significant financial barrier to paying for parking violations.

6. Current court challenges to towing

There are currently legal challenges to cities' authority to tow vehicles. The Coalition on Homelessness has filed a lawsuit against the City and County of San Francisco to challenge the current policy to tow safely and legally parked vehicles without a warrant based solely on the accrual of unpaid parking tickets. They contend these tows are unreasonable seizures of property that violate the Fourth Amendment of the United States Constitution. A tentative opinion issued by the First Appellate District on June 16th rejected San Francisco's arguments defending the practice. If tentative opinion aligns with the final decision it may mean that some provisions of this bill would be unnecessary or in conflict with the decision, as tows for even five or more parking tickets may not be allowed for public institutions of higher learning.

7. Double-referral

This bill was heard by and passed Senate Transportation Committee with a vote of 10-3 on June 27.

8. Argument in Support

Lawyers' Committee for Civil Rights of the San Francisco Bay Area supports this bill stating:

Every year in California, tens of thousands of drivers get their cars towed because they can't afford to pay their parking tickets. For low income and working households, the towing of a vehicle is often catastrophic. For many, a tow means total loss of their car because the tow and ticket fees are more than they can afford - and often more than what their car is worth. When people lose their cars they often lose their biggest personal asset, their ability to get to work, and their ability to meet their basic needs like grocery shopping, taking children to school, or going to medical appointments.

AB 1082 will prohibit towing or immobilizing a vehicle due to unpaid parking tickets, increase the number of unpaid tickets before the DMV can place a registration hold, and improve the guidelines for parking ticket payment programs. These changes together will help cities actually collect unpaid ticket fees and help working families continue to drive to work, pay their rent and bills, and provide for their families.

AB 1082 will end punitive practices that drive people further into poverty and instead help increase low-income families financial stability.

9. Argument in Opposition

The California State Sheriffs Association opposes this bill stating:

Existing law already provides significant opportunity for motorists to address unresolved parking violations. These statutes allow local governments to keep roadways safe, address the use of local streets and roads as unlawful venues for long-term storage or vehicle disposal, and ensure accountability among those who choose to violate the law. This bill would eliminate much of the motivation for people to take care of parking tickets, which creates further public safety challenges and opportunities for motorists to rack up further violations.

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