
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: AB 516 **Hearing Date:** July 9, 2019
Author: Chiu
Version: July 2, 2019
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Authority to Remove Vehicles*

HISTORY

Source: ACLU
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
Western Center on Law and Poverty

Prior Legislation: SB 405 (Hertzberg) Chapter 385, Stats. 2015

Support: California Voices for Progress; California Work & Family Coalition; Courage Campaign; Disability Rights Advocates; Drug Policy Alliance; East Bay Community Law Center; Ella Baker Center for Human Rights; Equal Rights Advocates; Friends Committee on Legislation of California; Homeboy Industries; Immigrant Legal Resource Center; Insight Center of Community Economic Development; Law Enforcement Action Partnership; Law Foundation of Silicon Valley; Legal Services of Northern California; National Association of Social Workers, California Chapter; National Lawyers Guild Los Angeles; National Lawyers Guild at UCLA; Public Counsel; Public Law Center; Queer Caucus at Berkeley Law; Queers United in Revolutionary Subversion; Rubicon Programs; San Francisco Public Defenders Office; Santa Barbara County Board of Supervisors; Stronger California Advocates Network; Tipping Point Community; Trans@ Berkeley Law; UDW/AFSCME Local 3930; United Food and Commercial Workers; Youth Justice Coalition

Opposition: Building Owners and Managers Association of CA; California Apartment Association; California Business Properties Association; California Chamber of Commerce; California Contract Cities Association; California Downtown Association; California Police Chiefs Association; California Public Parking Association; California Retailers Association; California Restaurant Association; California State Sheriffs' Association; Central Valley Towing; City Council of the City of Livermore; City of Beaumont; City of Bellflower; City of Burbank; City of Buena Park; City of Cupertino; City of Glendale; City of Laguna Beach; City of La Mirada; City of Long Beach; City of Los Angeles; City of Lynwood; City of Newport Beach; City of Palm Desert; City of Placentia; City of Rancho Cucamonga; City of Riverside; City of Sacramento; City of San Carlos; City of San Diego; City of San Jose; City of San Marcos; City of Santa Monica; City of Stanton; City of West Hollywood; Commercial Real Estate Development Association; Greater San Fernando Valley Chamber of Commerce; International Council of Shopping Centers; Council of the City of Pasadena; League of

California Cities; National Federation of Independent Business; Official Police Garages of Los Angeles; Orange County Board of Supervisors; Peace Officers' Research Association of California; Sacramento County Board of Supervisors; San Gabriel Valley Council of Governments; Uptown Community Parking District; United Chamber Advocacy Network; 1 individual

Assembly Floor Vote:

49 - 11

PURPOSE

The purpose of this bill is delete the authority of locals to remove or immobilize a vehicle that has 5 or more parking tickets and to require a warning before towing when a vehicle has been left more than 5 days in violation of a local ordinance.

Existing law authorizes a peace officer to tow a vehicle for a variety of reasons including, but not limited to, whether the vehicle has five or more unpaid parking tickets or traffic tickets, was parked in one place for more than 72 hours against a local ordinance, registration has lapsed by more than 6 months. (Vehicle Code § 22651)

Existing law allows a local authority, if a vehicle was towed for unpaid parking tickets or traffic violations, to sell an unclaimed vehicle for the purposes of recovering lost revenue, but makes the parking tickets and traffic tickets subordinate to the towing and storage costs. (Vehicle Code § 22851.1)

Existing law authorizes a peace officer to install an immobilization device on vehicles for having five or more unpaid parking tickets or traffic tickets. (Vehicle Code § 22651.7)

Existing law establishes a process that allows certain individuals that meet specified criteria in possession of outstanding parking citations to repay their fines and penalties, as specified. (Vehicle Code § 40220)

This bill makes findings and declarations relative to the impacts of vehicular towing on low-income and homeless individuals.

This bill repeals the authority that allows peace officers to tow vehicles for having five or more delinquent parking violations.

This bill modifies the authority to tow a vehicle parked or left standing for 5 or more business days by first requiring a notice to be placed on the vehicle allowing the vehicle to remained parked or left standing for a minimum of 10 additional business days prior to being towed.

This bill repeals existing law allowing for an immobilization of a vehicle that has five or more unpaid parking or traffic tickets.

This bill repeals the authority to conduct lien sales on vehicles towed for parking penalties to cover towing and storage expenses, as specified.

This bill makes various technical and conforming changes.

COMMENTS

1. Need for This Bill

According to the author:

Tens of thousands of middle class and lower-income vehicle owners suffer devastating economic consequences every year in California when their cars are towed and impounded. Towing charges across California typically require owners to pay, at minimum, \$500 to retrieve a car from a tow yard. If the car was towed because the owner couldn't afford to pay parking tickets or vehicle registration fees, the owner must first pay off these tickets or fees, any late fees, and often a release fee before they pay the tow yard's fees, which can substantially increase the total cost.

The car owner must also pay the tow yard's daily storage and other fees. For lower-income individuals who need time to secure this large sum, daily storage fees can easily balloon the cost of retrieving a car to \$1,100 or more, which is insurmountable for many or leaves families unable to pay their bills. For example, a Californian making minimum wage makes approximately \$96 per day, meaning the cost of a tow exceeds one weeks' pay.

When a car owner can't afford to pay the towing charges, the fines and fees owed and the release fee tow company will try to recover their costs by selling the car in a lien sale. But neither the DMV nor the local government get anything out of the lien sale. Everyone loses in that situation. The car owner loses their vehicle forever, leading to a cascade of negative repercussions and a push even deeper into poverty. Tow companies lose as well, as the revenue from a lien sale is unlikely to cover the cost of towing, storing, and the sale. And cities fail to recover the debt they sought to collect.

Towing should be conducted to improve public safety, not to punish people by collecting small debts. For example, tows should be done to ensure proper traffic flow -- such as when a car blocks an intersection, poses a danger to other cars or pedestrians, or blocks access to fire hydrants or bus zones -- or for critical public safety reason, such as if a person drives impaired.

Conversely, the economic consequences of a tow are especially punitive when a car is towed to collect small debts. According to a March 2019 report by legal service and community organizations, *Towed Into Debt: How Towing Practices in California Punish Poor People* (full report attached), there are three "poverty-related tows" used by local governments to collect small debts that have disproportionately impacted middle- and lower-income Californians:

- Tows for 5 or more unpaid parking tickets
- Tows where the car registration is more than 6 months out of date
- Tows where a car has been legally parked for 72 hours on a public street without being moved

According to the report, people who have unpaid parking tickets, lapsed vehicle registration, or 72-hour parking violations are far more likely to be low-income. These circumstances are usually avoidable for people who have enough income to easily pay fines and fees, or can pay for private parking. If a person lacks sufficient income to pay outstanding tickets and lapsed registration, towing a vehicle only compounds an existing untenable financial situation.

This bill addresses this issue by eliminating the three types of “poverty-related tow” previously mentioned. This bill also leaves intact over two dozen existing authorizations for towing. California’s existing towing practices don’t work for anybody. Further, AB 516 leaves in place all other mechanisms for collecting unpaid debt such as wage garnishments, bank levies, use of collection agencies, and traffic tickets for lack of proper registration.

Lower income people suffer a devastating loss when they permanently lose their cars and their ability to get to work, school, and the doctor or to their job. Tow yards lose money when unclaimed cars have to be sold at lien sales. Local governments fail to recover the underlying debt.

2. Towed into Debt

A report published in 2019 by the sponsors titled *Towed into Debt: How Towing Practices in California Punish Poor People*, notes how California’s cities attempt 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.

3. The Cost of Towing

The general cost of towing and impound fees have been widely reported. Rates vary by locality based on the agreement local agencies enter with towing companies. For example, a random search of towing and storage rates for three cities in California finds that for the City of Long Beach the basic tow rate is \$195/hour, the vehicle release fee is \$43, and the daily storage fee is \$55. For the City of San Jose the basic tow rate is \$215, the release fee is \$122, and the daily storage fee is \$87.50, and for the City of Los Angeles the basic tow rate is \$133/hour, the release fee is \$115, and the daily storage fee is \$41.50. As these rates can translate into hundreds of dollars in a matter of days, it has been noted by many stakeholders that these rates have the greatest negative impact on low-income individuals. In response to these rates, 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.

4. Help for Those Facing Hardship

Over the past five years, the Legislature has passed a variety of measures to allow individuals experiencing financial hardships to pay down and/or remove penalties and fines associated with parking and certain traffic violations. In 2015, Hertzberg, SB 405 (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. SB 405 aimed to remedy an issue many low-income individuals were experiencing with driver's license suspensions associated with unpaid traffic violations. In 2017, AB 503, Lackey, (Chapter 741, Statutes of 2017) provides individuals experiencing financial hardships the opportunity to pay down unpaid parking citations through an installment plan if certain conditions are met.

5. Warning Before Towing

For a vehicle identified to be parked longer than 5 days, this bill requires a local agency to provide notification and an additional period prior to towing. The notification shall include information on local resources available to assist the person.

6. Removal of Ability to tow or Immobilize for Parking Tickets

This bill removes the ability to tow a vehicle that has been issued five or more parking tickets, and removes the ability to immobilize a vehicle that has been issued five or more parking tickets. This bill applies to *all* vehicles throughout the state regardless of an individual's ability to pay.

7. Argument in Support

The Western Center on Law and Poverty, one of the sponsors of this bill states in part:

Losing a vehicle due to towing has a devastating impact on poor Californians. When a person gets their car towed they are faced with three unappealing choices. One, they can spend the little money they have to pay off the fines and fees, pay the release fee to local law enforcement and then pay off the towing and storage costs. But as the Federal Reserve notes 46 percent of Americans can't afford an unexpected \$400 bill let alone a tow costing \$1,000 or more. If they pay off the towing costs, it likely means the family is not paying other bills which simply extends the crisis to another aspect of the family's life. For many this can lead to an eviction.

Two, persons can borrow money from friends or family, attempt to sell an asset to get the money or go to a high cost consumer loan company to get the money to get the car back. For many families these are not options at all as they don't have family or friends they can borrow from and they may not have the credit to borrow enough. But if they can borrow money, it places the family in deeper debt.

Three, a person will make the rational decision that options one and two will cause more problems than they will solve and abandons the car. While this comes with its' own set of complications, at least the family is not out \$1,000 or more. They will, though, struggle to do the everyday tasks many take for granted.

8. Argument in Opposition

The City of La Mirada, among other cities, opposes this bill stating:

AB 516 would eliminate enforcement tools for cities to address motorists who disregard basic laws designed to benefit entire communities. Specifically, the measure would eliminate the ability for cities to:

- “Immobilize,” or place a boot on a vehicle, for motorists who have five or more unpaid parking tickets;
- Remove vehicles with expired registration that are operating illegally; and
- Remove vehicles in violation of parking time restrictions.

The approach in AB 516 rewards people who fail to pay their parking tickets, register their vehicles, or adhere to reasonable policies aimed at preventing abandonment and/or street storage of vehicles, regardless of income.

AB 516 will exacerbate parking scarcity by creating an environment extremely vulnerable for exploitation with consequences much more serious than the problem the bill is trying to solve. This bill, coupled with efforts by the state aimed at eliminating local parking minimums, will create quality of life concerns across income demographics in California.

-- END --