

AMENDED IN ASSEMBLY APRIL 29, 2008

AMENDED IN ASSEMBLY APRIL 7, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2402**

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**Introduced by Assembly Member La Malfa**

February 21, 2008

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An act to amend Section 22651 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2402, as amended, La Malfa. Vehicles: removal from roadside rest area or viewpoint.

Under existing law, a peace officer, as defined, or a regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city, county, or jurisdiction of a state agency in which a vehicle is located, may remove a vehicle located within the territorial limits in which the officer or employee may act, under specified circumstances, including when a vehicle, with certain exceptions, is stopped, parked, or left standing for more than 8 hours within a roadside rest area or viewpoint.

This bill would, *notwithstanding this provision*, extend ~~that~~ *this* period to 10 hours *for a common carrier*.

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

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

1     ~~SECTION 1.~~

2     ~~SECTION 1.~~ Section 22651 of the Vehicle Code, as amended  
3 by Chapter 749 of the Statutes of 2007, is amended to read:

4     22651. A peace officer, as defined in Chapter 4.5 (commencing  
5 with Section 830) of Title 3 of Part 2 of the Penal Code, or a  
6 regularly employed and salaried employee, who is engaged in  
7 directing traffic or enforcing parking laws and regulations, of a  
8 city, county, or jurisdiction of a state agency in which a vehicle is  
9 located, may remove a vehicle located within the territorial limits  
10 in which the officer or employee may act, under the following  
11 circumstances:

12     (a) When a vehicle is left unattended upon a bridge, viaduct, or  
13 causeway or in a tube or tunnel where the vehicle constitutes an  
14 obstruction to traffic.

15     (b) When a vehicle is parked or left standing upon a highway  
16 in a position so as to obstruct the normal movement of traffic or  
17 in a condition so as to create a hazard to other traffic upon the  
18 highway.

19     (c) When a vehicle is found upon a highway or public land and  
20 a report has previously been made that the vehicle is stolen or a  
21 complaint has been filed and a warrant thereon is issued charging  
22 that the vehicle is embezzled.

23     (d) When a vehicle is illegally parked so as to block the entrance  
24 to a private driveway and it is impractical to move the vehicle from  
25 in front of the driveway to another point on the highway.

26     (e) When a vehicle is illegally parked so as to prevent access  
27 by firefighting equipment to a fire hydrant and it is impracticable  
28 to move the vehicle from in front of the fire hydrant to another  
29 point on the highway.

30     (f) When a vehicle, except a highway maintenance or  
31 construction equipment, is stopped, parked, or left standing for  
32 more than four hours upon the right-of-way of a freeway that has  
33 full control of access and no crossings at grade and the driver, if  
34 present, cannot move the vehicle under its own power.

35     (g) When the person in charge of a vehicle upon a highway or  
36 public land is, by reason of physical injuries or illness,  
37 incapacitated to an extent so as to be unable to provide for its  
38 custody or removal.

1 (h) (1) When an officer arrests a person driving or in control  
2 of a vehicle for an alleged offense and the officer is, by this code  
3 or other law, required or permitted to take, and does take, the  
4 person into custody.

5 (2) When an officer serves a notice of an order of suspension  
6 or revocation pursuant to Section 13388 or 13389.

7 (i) (1) When a vehicle, other than a rented vehicle, is found  
8 upon a highway or public land, or is removed pursuant to this code,  
9 and it is known that the vehicle has been issued five or more notices  
10 of parking violations to which the owner or person in control of  
11 the vehicle has not responded within 21 calendar days of notice  
12 of citation issuance or citation issuance or 14 calendar days of the  
13 mailing of a notice of delinquent parking violation to the agency  
14 responsible for processing notices of parking violation or the  
15 registered owner of the vehicle is known to have been issued five  
16 or more notices for failure to pay or failure to appear in court for  
17 traffic violations for which a certificate has not been issued by the  
18 magistrate or clerk of the court hearing the case showing that the  
19 case has been adjudicated or concerning which the registered  
20 owner's record has not been cleared pursuant to Chapter 6  
21 (commencing with Section 41500) of Division 17, the vehicle may  
22 be impounded until that person furnishes to the impounding law  
23 enforcement agency all of the following:

24 (A) Evidence of his or her identity.

25 (B) An address within this state at which he or she can be  
26 located.

27 (C) Satisfactory evidence that all parking penalties due for the  
28 vehicle and all other vehicles registered to the registered owner of  
29 the impounded vehicle, and all traffic violations of the registered  
30 owner, have been cleared.

31 (2) The requirements in subparagraph (C) of paragraph (1) shall  
32 be fully enforced by the impounding law enforcement agency on  
33 and after the time that the Department of Motor Vehicles is able  
34 to provide access to the necessary records.

35 (3) A notice of parking violation issued for an unlawfully parked  
36 vehicle shall be accompanied by a warning that repeated violations  
37 may result in the impounding of the vehicle. In lieu of furnishing  
38 satisfactory evidence that the full amount of parking penalties or  
39 bail has been deposited, that person may demand to be taken  
40 without unnecessary delay before a magistrate, for traffic offenses,

1 or a hearing examiner, for parking offenses, within the county in  
 2 which the offenses charged are alleged to have been committed  
 3 and who has jurisdiction of the offenses and is nearest or most  
 4 accessible with reference to the place where the vehicle is  
 5 impounded. Evidence of current registration shall be produced  
 6 after a vehicle has been impounded, or, at the discretion of the  
 7 impounding law enforcement agency, a notice to appear for  
 8 violation of subdivision (a) of Section 4000 shall be issued to that  
 9 person.

10 (4) A vehicle shall be released to the legal owner, as defined in  
 11 Section 370, if the legal owner does all of the following:

12 (A) Pays the cost of towing and storing the vehicle.

13 (B) Submits evidence of payment of fees as provided in Section  
 14 9561.

15 (C) Completes an affidavit in a form acceptable to the  
 16 impounding law enforcement agency stating that the vehicle was  
 17 not in possession of the legal owner at the time of occurrence of  
 18 the offenses relating to standing or parking. A vehicle released to  
 19 a legal owner under this subdivision is a repossessed vehicle for  
 20 purposes of disposition or sale. The impounding agency shall have  
 21 a lien on any surplus that remains upon sale of the vehicle to which  
 22 the registered owner is or may be entitled, as security for the full  
 23 amount of the parking penalties for all notices of parking violations  
 24 issued for the vehicle and for all local administrative charges  
 25 imposed pursuant to Section 22850.5. The legal owner shall  
 26 promptly remit to, and deposit with, the agency responsible for  
 27 processing notices of parking violations from that surplus, on  
 28 receipt of that surplus, the full amount of the parking penalties for  
 29 all notices of parking violations issued for the vehicle and for all  
 30 local administrative charges imposed pursuant to Section 22850.5.

31 (5) The impounding agency that has a lien on the surplus that  
 32 remains upon the sale of a vehicle to which a registered owner is  
 33 entitled pursuant to paragraph (4) has a deficiency claim against  
 34 the registered owner for the full amount of the parking penalties  
 35 for all notices of parking violations issued for the vehicle and for  
 36 all local administrative charges imposed pursuant to Section  
 37 22850.5, less the amount received from the sale of the vehicle.

38 (j) When a vehicle is found illegally parked and there are no  
 39 license plates or other evidence of registration displayed, the  
 40 vehicle may be impounded until the owner or person in control of

1 the vehicle furnishes the impounding law enforcement agency  
2 evidence of his or her identity and an address within this state at  
3 which he or she can be located.

4 (k) When a vehicle is parked or left standing upon a highway  
5 for 72 or more consecutive hours in violation of a local ordinance  
6 authorizing removal.

7 (l) When a vehicle is illegally parked on a highway in violation  
8 of a local ordinance forbidding standing or parking and the use of  
9 a highway, or a portion thereof, is necessary for the cleaning,  
10 repair, or construction of the highway, or for the installation of  
11 underground utilities, and signs giving notice that the vehicle may  
12 be removed are erected or placed at least 24 hours prior to the  
13 removal by a local authority pursuant to the ordinance.

14 (m) Wherever the use of the highway, or a portion of the  
15 highway, is authorized by a local authority for a purpose other  
16 than the normal flow of traffic or for the movement of equipment,  
17 articles, or structures of unusual size, and the parking of a vehicle  
18 would prohibit or interfere with that use or movement, and signs  
19 giving notice that the vehicle may be removed are erected or placed  
20 at least 24 hours prior to the removal by a local authority pursuant  
21 to the ordinance.

22 (n) Whenever a vehicle is parked or left standing where local  
23 authorities, by resolution or ordinance, have prohibited parking  
24 and have authorized the removal of vehicles. A vehicle shall not  
25 be removed unless signs are posted giving notice of the removal.

26 (o) (1) When a vehicle is found or operated upon a highway,  
27 public land, or an offstreet parking facility under the following  
28 circumstances:

29 (A) With a registration expiration date in excess of six months  
30 before the date it is found or operated on the highway, public lands,  
31 or the offstreet parking facility.

32 (B) Displaying in, or upon, the vehicle, a registration card,  
33 identification card, temporary receipt, license plate, special plate,  
34 registration sticker, device issued pursuant to Section 4853, or  
35 permit that was not issued for that vehicle, or is not otherwise  
36 lawfully used on that vehicle under this code.

37 (C) Displaying in, or upon, the vehicle, an altered, forged,  
38 counterfeit, or falsified registration card, identification card,  
39 temporary receipt, license plate, special plate, registration sticker,  
40 device issued pursuant to Section 4853, or permit.

1 (2) When a vehicle described in paragraph (1) is occupied, only  
2 a peace officer, as defined in Chapter 4.5 (commencing with  
3 Section 830) of Title 3 of Part 2 of the Penal Code, may remove  
4 the vehicle.

5 (3) For the purposes of this subdivision, the vehicle shall be  
6 released to the owner or person in control of the vehicle only after  
7 the owner or person furnishes the storing law enforcement agency  
8 with proof of current registration and a currently valid driver's  
9 license to operate the vehicle.

10 (4) As used in this subdivision, "offstreet parking facility" means  
11 an offstreet facility held open for use by the public for parking  
12 vehicles and includes a publicly owned facility for offstreet  
13 parking, and privately owned facilities for offstreet parking ~~it~~ *if* a  
14 fee is not charged for the privilege to park and that are held open  
15 for the common public use of retail customers.

16 (p) When the peace officer issues the driver of a vehicle a notice  
17 to appear for a violation of Section 12500, 14601, 14601.1,  
18 14601.2, 14601.3, 14601.4, 14601.5, or 14604 and the vehicle is  
19 not impounded pursuant to Section 22655.5. A vehicle so removed  
20 from the highway or public land, or from private property after  
21 having been on a highway or public land, shall not be released to  
22 the registered owner or his or her agent, except upon presentation  
23 of the registered owner's or his or her agent's currently valid  
24 driver's license to operate the vehicle and proof of current vehicle  
25 registration, or upon order of a court.

26 (q) Whenever a vehicle is parked for more than 24 hours on a  
27 portion of highway that is located within the boundaries of a  
28 common interest development, as defined in subdivision (c) of  
29 Section 1351 of the Civil Code, and signs, as required by Section  
30 22658, have been posted on that portion of highway providing  
31 notice to drivers that vehicles parked thereon for more than 24  
32 hours will be removed at the owner's expense, pursuant to a  
33 resolution or ordinance adopted by the local authority.

34 (r) When a vehicle is illegally parked and blocks the movement  
35 of a legally parked vehicle.

36 (s) (1) When a vehicle, except highway maintenance or  
37 construction equipment, an authorized emergency vehicle, or a  
38 vehicle that is properly permitted or otherwise authorized by the  
39 Department of Transportation, is stopped, parked, or left standing

1 for more than ~~10~~ *eight* hours within a roadside rest area or  
2 viewpoint.

3 *(2) Notwithstanding paragraph (1), when a common carrier is*  
4 *stopped, parked, or left standing for more than 10 hours within a*  
5 *roadside rest area or viewpoint.*

6 ~~(2)~~

7 (3) For purposes of this subdivision, a roadside rest area or  
8 viewpoint is a publicly maintained vehicle parking area, adjacent  
9 to a highway, utilized for the convenient, safe stopping of a vehicle  
10 to enable motorists to rest or to view the scenery. If two or more  
11 roadside rest areas are located on opposite sides of the highway,  
12 or upon the center divider, within seven miles of each other, then  
13 that combination of rest areas is considered to be the same rest  
14 area.

15 (t) When a peace officer issues a notice to appear for a violation  
16 of Section 25279.

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