

Date of Hearing: April 13, 2015

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 1222 (Bloom) – As Amended April 6, 2015

SUBJECT: Tow trucks

SUMMARY: Adds provisions to curb "bandit towing" practices. Specifically, **this bill:**

- 1) Authorizes a local jurisdiction to license and regulate tow operators working within the local jurisdiction and allows law enforcement to seize, remove, and impound tow trucks operated without a license.
- 2) Requires a tow operator who is summoned to the scene of an accident to possess certain information prior to arriving at the scene.
- 3) Requires a tow operator who is requested to stop or is flagged down at the scene of an accident or disabled vehicle to collect certain information and provide it to law enforcement or other investigating agencies, upon request.
- 4) Requires a tow operator who moves an unattended vehicle or a vehicle involved in an injury accident, to obtain certain information and provide it to law enforcement or other investigating agencies, upon request.
- 5) Requires a tow operator to furnish specified information to a vehicle's owner or operator prior to attaching the vehicle to the tow truck.
- 6) Requires a tow operator, prior to removing a vehicle, to obtain the vehicle owner or operator's signature on an itemized, written estimate of costs and furnish a copy to the owner or operator of the vehicle.
- 7) Requires that if neither the vehicle owner or operator is present at the time of the tow, the tow operator to send a copy of the itemized invoice, by registered mail, within one business day to the address where the vehicle is registered.
- 8) Prohibits charges made in excess of the written estimate without prior written consent of the vehicle's owner or operator.
- 9) Prohibits tow operators from placing a lien against a vehicle for non-payment if the tow operator fails to collect or provide specified information related to the tow.
- 10) Requires a tow operator to maintain all required written documentation for three years and to make the documents available for inspection and copying within 48 hours of a written request by law enforcement or other investigating agencies.
- 11) Requires a business taking possession of a towed vehicle to collect specified information when the vehicle is dropped off, maintain the information for three years, and make it available for inspection by law enforcement or other investigating agencies.
- 12) Revises and recasts various provisions and makes related, clarifying amendments.

EXISTING LAW:

- 1) Generally authorizes a local jurisdiction to license and regulate the operation of tow truck services whose place of business or employment is within their jurisdiction and provides that failure obtain a license is punishable by seizure and impoundment of the tow truck.
- 2) Generally prohibits a tow operator from stopping or soliciting tow services at the scene of an accident or near a disabled vehicle unless called to the scene by the owner of the vehicle, law enforcement, or a public agency.

FISCAL EFFECT: Unknown

COMMENTS: "Bandit towing," or predatory towing as it is sometimes called, involves unauthorized towing of a vehicle. Bandit towing can include unauthorized removal of parked cars. It can also include towing a vehicle from the scene of an accident when the tow operator was not legally authorized to be at the scene. When a vehicle is towed by a bandit tower, a variety of scenarios can play out. For example, in some instances, bandits charge excessive towing fees or take a car to a vehicle storage facility and hold it for a prolonged period of time and then charge excessive storage fees when the owner comes to retrieve the vehicle. In other instances, bandit towers will take a vehicle to an unscrupulous auto shop, where costly and sometimes unnecessary repairs are performed.

Nearly a decade ago there was a growing problem with bandit towing that involved the removal of legitimately parked cars. In these cases, a tower would remove the parked car, take it to a storage lot, and then charge inflated towing and storage fees. To address the problem, AB 2210 (Goldberg), Chapter 609, Statutes of 2006, required written approval before the tow operator could remove a parked car. If the tow was on private property, the written approval had to come from the property owner and, if on public property, the written approval was required to be from law enforcement or a public agency. AB 2210, among other things, also required tow operators to maintain California Highway Patrol (CHP)-approved rates, vehicle storage facilities release towed vehicles after normal business hours, and set specified storage rate fees. According to the Los Angeles City Attorney's office, the sponsor of AB 1222, after AB 2210 took effect, incidences of predatory towing dropped dramatically in the Los Angeles area. It is believed, however, that many of these unscrupulous tow operators simply moved their operations "to the streets" and began illicitly towing disabled vehicles or vehicles involved in accidents.

Generally, existing law makes it illegal for a tow operator to approach a disabled vehicle or arrive on the scene of an accident to provide tow services unless they are specifically summoned by law enforcement or called to the scene (or flagged down) by the vehicle's owner or operator. Many bandit towers, however, are known to monitor police radio frequencies to determine where an accident has occurred or where a disabled vehicle is stopped and then arrive on the scene to offer assistance. If asked, bandit towers typically convey to the vehicle operator that they were dispatched by law enforcement, a motor club, or an insurance company. If asked by law enforcement, bandit towers will typically relay that they were flagged down or otherwise summoned by the vehicle's operator. Because there is no requirement for documentation of how the tower was summoned to the scene, it is difficult to refute their claims or prosecute them.

The author has introduced AB 1222 in an effort to curb of predatory towing practices which, the sponsor indicates, is a growing problem in the Los Angeles area. Specifically, the sponsor notes

that in a little over a year, 586 incidences of bandit towing were reported in California with most occurring in the Los Angeles area. To address this growing problem, AB 1222 implements many of the successful documentation requirements set forth in AB 2210. AB 1222 also sets rates for tow operators and storage facilities and requires each to maintain specific information on who summoned them to the scene. AB 1222 provides that the information must be made available to law enforcement and other investigating agencies, as required. Additionally, AB 1222 expands the authority of local jurisdictions to permit and license tow companies operating within their jurisdiction (regardless of the location of the tow operator's principal place of business).

While the California Tow Truck Association (CTTA) vehemently supports actions that crack down on bandit towing practices, they oppose the bill in its current form primarily because of the provision that would allow a local jurisdiction to license all tow operators operating in a local jurisdiction would make it difficult and costly for legitimate tow operators to conduct business while likely having little impact on illicit towing practices. CTTA also expressed concerns about the amount of information that tow operators would be required to collect "on scene" but they were willing to work with the author to establish working practices that accomplished the goal of documenting how a tow operator was summoned to the scene.

To address concerns raised by CTTA and others, the author worked closely with stakeholders to craft amendments that removed the local licensing and other onerous data collection requirements. The amendments, discussed below, provide data collection requirements that are tailored for specific scenarios (e.g., the tow operator was summoned by law enforcement, through an auto club, or flagged down at the scene) and data collection and data storage requirements are far less burdensome. The amendments also set forth misdemeanor penalties for failure to comply, which CTTA believes will improve AB 1222's effectiveness. With regard to licensing, CTTA has agreed to work with the author and other stakeholders over the coming year on a proposal to develop a statewide licensing structure for all tow operators. With the proposed amendments, CTTA and others have removed their opposition

Author's proposed amendments: The author's proposed amendments attempt to reduce bandit towing by requiring tow companies to maintain proof that they were actually summoned to the scene or were flagged down and to provide the information to law enforcement and others, as specified. Tow operators and others subject to the bill's provisions would be required to keep the specified documentation for three years and make it available to law enforcement and other specified state and local agencies, upon request. The amendments also require tow companies to present a detailed estimate of charges to customers for services, limits the towing and storage fees that can be charged, requires businesses taking possession of a towed vehicle to document the transaction, and provides misdemeanor penalties for willfully violating these requirements.

Specifically, the amendments:

- 1) Delete proposed provisions authorizing a local jurisdiction to license and regulate tow trucks that operate within their jurisdiction regardless of whether or not the tow operator's principal place of business is within the local jurisdiction.
- 2) Delete proposed requirements that written estimates for tow services be mailed to a customer if they are not present at the scene when the vehicle is towed.

- 3) Delete provisions prohibiting a tow operator from placing a lien on a vehicle if the tow operator does not comply with reporting provisions.
- 4) Adds the requirement that a tow operator summoned to the scene by the owner or operator of a disabled vehicle possess all of the following information in writing prior to arriving at the scene:
 - a) The name of the person and phone number of the person who summoned them to the scene;
 - b) The make, model, and license plate number of the disabled vehicle;
 - c) The date and time it was summoned; and,
 - d) The name of the person(s) who obtained the information.
- 5) Adds the requirement that a tow operator summoned to the scene by a motor club by the owner or operator of a disabled vehicle possess the following information prior to arriving at the scene:
 - a) The business name of the motor club;
 - b) The identification number the motor club assigns to the referral; and,
 - c) The date and time it was summoned to the scene by the motor club.
- 6) Adds the requirement that a tow operator requested to stop or flagged down at the scene by the owner or operator of a disabled vehicle possess the following information in writing before leaving the scene:

The first and last name and working telephone number of the person who requested the stop or flagged it down;

 - a) The make, model, license and plate number (if displayed) of the disabled vehicle;
 - b) The date and time it was requested to stop or was flagged down; and,
 - c) The name of the person(s) who obtained the information.
- 7) Adds the requirement that a tow operator requested to stop by a law enforcement officer or public agency possess the following information, in writing before leaving the scene:

The identity of the law enforcement agency or public agency;

 - a) The log number, call number, incident number or dispatch number assigned to the incident by law enforcement or the public agency or the surname and badge number of the law enforcement office or surname and employee identification number of the public agency employee; and,
 - b) The date and time of the summons, request, or express authorization.

- 8) Adds the requirement that a tow operator make the written information regarding the summons available to law enforcement from the time it appears to the scene until the vehicle is towed and released.
- 9) Adds the requirement that the tow operator maintain the written information regarding the summons and make the information available for inspection and copying within 48 hours of a written request from law enforcement.
- 10) Adds the requirement that a tow operator furnish a written, itemized estimate of all charges and services to be performed to the owner or operator of the disabled vehicle (if present) that includes information including a description of all service including labor and equipment, and storage fees expressed as a 24-hour rate.
- 11) Adds the requirement that the owner or operator of the disabled vehicle sign the estimate and be provided with a copy.
- 12) Adds the requirement that the collection of information on who summoned the tow operator to the scene may be performed after the vehicle is attached and removed to the nearest safe shoulder or street, if done at the request of law enforcement or a public agency, provided the estimate is furnished prior to removal of the vehicle from the safe shoulder or street.
- 13) Adds the requirement that the tow operator maintain the written documents for 3 years and that they make the documents available for inspection and copying within 48 hours of a written request of law enforcement, the Attorney General's office, or a district attorney of a local jurisdiction.
- 14) Adds the requirement that a tow operator summoned to the scene by a motor club or by law enforcement or a public agency is exempt from the requirement to provide an itemized estimate of charges.
- 15) Adds the requirement that a tow operator may not charge a fee for towing or storage of a vehicle over and above law enforcement-approved rates.
- 16) Adds the requirement that no towing charges be made in excess of the estimated price without prior consent of the vehicle's owner or operator.
- 17) Adds the requirement that all services (including warranty or zero cost services) be recorded on an invoice.
- 18) Adds the requirement that failure to comply with the requirements is a misdemeanor punishable by a fine of not more than \$2,500 or imprisonment in a county jail for not more than three months or both.
- 19) Adds the requirement that a business taking possession of a vehicle from a tow truck operator must collect the following information, maintain it for 3 years, and provide it when requested to do so by law enforcement or an investigating agency:
 - a) The name, address and telephone number of the towing company;

- b) The make, model, license plate number, and vehicle identification number of the tow truck; and,
- c) The date and time that possession was taken of the vehicle.

20) Adds the requirement that if a business takes the possession of a vehicle after hours that the information that would be collected at the in-person drop off must be collected from the towing company on the next business day.

21) Make related, clarifying amendments.

Previous legislation: AB 529 (Lowenthal), Chapter 500, Statutes of 2013, revised the BIT Program as administered by CHP to, among other things, include tow trucks under the program.

AB 2210 (Goldberg) Chapter 609, Statutes of 2006 enhanced protections provided to motorists from unfair vehicle towing practices and unauthorized vehicle towing from private property.

SB 600 (Dills) Chapter 755, Statutes of 1991, among other things, prohibited the owner or operator of a tow truck to stop at the scene of an accident or near a disable vehicle unless summoned to the scene, requested to stop, or flagged down by the owner or operator of the vehicle or a law enforcement officer or public agency.

REGISTERED SUPPORT / OPPOSITION:

Support

Official Police Garage Association of Los Angeles

Opposition

Note: the following entities have indicated they will remove their opposition if the proposed amendments are accepted.

California Tow Truck Association

Glowniak Quality Towing, Inc.

Hammer Towing, Inc.

Royal Coaches Auto Body and Towing

United Coalition for Motor Club Safety

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