

Date of Hearing: April 25, 2022

ASSEMBLY COMMITTEE ON TRANSPORTATION

Laura Friedman, Chair

AB 2174 (Chen) – As Amended March 17, 2022

**SUBJECT:** Vehicles: removal from private property

**SUMMARY:** Requires the written authorization from the property owner to a towing company in order to commence a tow to include identification numbers on the vehicle, including, but not limited to, a quick response (QR) code or serial number if the vehicle does not have an identifiable make, model, vehicle identification number or license plate number. Specifically, **this bill:**

- 1) Defines a “shared mobility device” as an electrically motorized board, motorized scooter, electric bicycle, bicycle, or other similar personal transportation device except a motorized wheel chair, that is made available to the public by a shared mobility device service provider for shared use and transportation in exchange for financial compensation via a digital application or other electronic or digital platform.
- 2) States that shared mobility devices are vehicles for the purposes of this section and that the subdivision is declaratory of existing law.

**EXISTING LAW:**

- 1) Defines a tow truck as “a motor vehicle which has been altered or designed and equipped for, and primarily used in the business of, transporting vehicles by means of a crane, hoist, tow bar, tow line, or dolly or is otherwise primarily used to render assistance to other vehicles. A ‘roll-back carrier’ designed to carry up to two vehicles is also a tow truck. A trailer for hire that is being used to transport a vehicle is a tow truck. ‘Tow truck’ does not include an automobile dismantlers’ tow vehicle or a Repossessors tow vehicle.”
- 2) Authorizes the owner or person in lawful possession of private property to cause the removal of a vehicle parked on the property to a storage facility under specified circumstances, including when signs are posted prohibiting public parking and warning that vehicles will be removed at the owner’s expense.
- 3) Requires the tow truck operator removing the vehicle, if the operator knows or is able to ascertain the name and address of the registered and legal owner of the vehicle, to immediately give, or cause to be given, notice in writing to the registered legal owner of the fact of the removal and of the amount of mileage on that vehicle at the time of the removal, amongst other things.
- 4) Makes it a misdemeanor for the towing company to remove or commence the removal of a vehicle from private property without first obtaining the written authorization from the property owner or lessee, or an employee or agent, as specified, and requires the written authorization to include specified information, including the make, model, vehicle identification number (VIN) and license plate number of the removed vehicle.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

In recent years, cities have seen an influx of “shared mobility devices”—fleets of personal mobility devices that can be rented using a mobile app or kiosk. Shared mobility devices are picked up and dropped off in the public right-of-way and are meant for short, point-to-point trips (rather than using the same device for a round-trip journey). Since these devices are smaller than other forms of vehicular travel, they are often referred to collectively as “micromobility.”

The shared mobility device trend initially began with the deployment of public rental bicycles that users borrow from and return to docking stations at specific locations, such as the Citi Bike program deployed in New York City in 2013. In subsequent years, additional modes of “micromobility” have sprung up in cities across the country, including bikes with a power-assist feature (e-bikes) and battery-powered, motorized scooters (e-scooters). Depending on local regulations, these shared mobility devices may be docked, like previous bikeshare programs, or dockless, where the devices are generally rented through a mobile app that identifies the locations of the devices and which may be left wherever the user ends their trip. To access a shared mobility device, a user typically creates an online account with a provider, looks for and ‘unlocks’ one of the provider’s devices through a smart phone application, and takes it for a trip on a per-minute rate, with additional fees depending on the platform that operates the service.

Because dockless shared mobility devices do not have to be returned to a central point for charging or maintenance, they rely on networks of individuals (known as “chargers”) to reposition, charge, and maintain the devices so that they remain ready for use. The industry has seen significant growth in recent years, and dockless scooters in particular have proven to be extremely popular. A 2019 report by the National Association of City Transportation Officials found that nearly half (46%) of the trips on shared mobility devices in 2018 were made on e-scooters—in the first year of their adoption.

E-scooters have proven to be divisive in local communities. For example, over 90,000 people follow an Instagram page called “Bird Graveyard” which primarily highlights videos of individuals destroying or defacing these devices.

The San Diego company Scoot Scoop formed to tow shared e-scooters and bicycles. According to the company’s website, “We started this new company to specialize in Dockless scooters and bikes. It developed from a need to help clean up the community and protect business and homeowners. The ripple effect of disruptive technology does not always affect everyone in a positive way. We believe we can help alleviate some of the negative impact this new industry has caused to the public, private property and business owners.”

The company claims on their website that they offer towing services for free to over 300 private properties across the San Diego and Los Angeles Region. The company also claims to have impounded over 15,000 scooters, a greater number of scooters than is currently permitted to operate in the City of San Diego.

At first e-scooter company Bird paid Scoot Scoop \$40,000 for the return of 1,800 scooters. In March of 2019, Bird sued Scoot Scoop, alleging that the company had illegally seized 2,500 scooters (by December of 2021 that number rose to 6,000). Their complaint alleges that Scoot Scoop was removing scooters outside of the areas they were authorized by private businesses to

tow scooters, and were taking the scooters far beyond the 10 mile radius storage requirement in statute. Further they alleged the company failed to provide them with proper notice of the tow, and were charging exuberant fees.

Bird, Lime, Lyft and Spin write in support of this bill, arguing “In our experience, predatory towing companies will point to the California towing statute as justification for removing our vehicles from private property, while also arguing that because a micromobility device does not count as a “vehicle” under the same statute, the companies do not need to follow its protocols. AB 2174 would resolve this legal grey area.”

The Superior Court of California determined in December of 2021 that Scoot Scoop failed to comply with the provisions of vehicle code related to towing and determined the companies do not have to pay to retrieve their scooters and invited Bird to seek damages to recover losses from the possession of the property.

*Committee comments:* The vehicle code section that this bill amends was designed to balance the property rights of businesses that needed a vehicle towed, while also ensuring the individual who has their vehicle towed receives proper notice of the tow. To do this, the tow truck operator is required to attempt to ascertain the property owner of the vehicle using Department of Motor Vehicle (DMV) records, The written authorization to tow the vehicle has to include the make, model, vehicle identification number (VIN), and license plate number of the removed vehicles.

Not all vehicles, however, have a VIN or license plate number. E-scooters, which are considered vehicles for the purposes of the vehicle code, lack these identifiers, as they are not required to be registered with DMV or have a VIN by the federal government. To ensure companies like Bird receive proper notice that their vehicles were towed, this bill expands the written authorization to include a QR code or serial number on the device.

This bill defines “shared mobility device” using the same definition in the civil code, and then states that shared mobility devices are vehicles and states that this is declaratory of existing law. Defining a new term and declaring it existing law is unnecessary, and in the case of this bill, is actually not accurate. Bicycles, for example, are not vehicles, as vehicles are required to be self-propelled under the vehicle code. E-scooters are vehicles for the purposes of the vehicle code because they are self-propelled.

To address this issue, the author has proposed amending the bill to strike 22658(r) from the bill and instead do the following:

(i) The make, model, vehicle identification number, and license plate number of the removed vehicle. If the vehicle **is a shared mobility device or** does not have an identifiable make, model, vehicle identification number, or license plate number, the authorization shall include any identification numbers on the vehicle, including, but not limited to, a quick response (QR) code or serial number.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Bird  
Lime

Lyft  
Spin

**Opposition**

None on file

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