

Date of Hearing: April 23, 2018

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 2392 (Santiago) – As Amended April 16, 2018

**SUBJECT:** Vehicles: towing and storage

**SUMMARY:** Provides additional consumer protections for towing and storage customers, including specifying what fees are considered reasonable or unreasonable. Specifically, **this bill:**

- 1) Requires all towing and storage fees charged to a legal owner of a motor vehicle to be reasonable.
- 2) Considers the following fees reasonable:
  - a) All towing and storage fees charged when those services are performed as a result of an accident or recovery of a stolen vehicle;
  - b) The fees do not exceed the rates charged for similar services provided in response to requests initiated by a public agency, including, but not limited to, the Department of the California Highway Patrol (CHP) or local police departments; and,
  - c) The fees are comparable to storage-related rates charged by other facilities in the same locale.
- 3) The following rates are considered unreasonable:
  - a) Administrative or filing fees, except those incurred related to documentation from the Department of Motor Vehicles (DMV) and those related to the lien sale of a vehicle;
  - b) Security fees;
  - c) Dolly fees;
  - d) Load and unload fees;
  - e) Pull-out fees; and,
  - f) Gate fees, except when the owner or insurer of the vehicle requests that the vehicle be released outside of regular business hours.
- 4) Provides that an insurer must be allowed to inspect a vehicle for an unspecified amount of time without paying a fee.
- 5) Provides that an insurer can pay the storage and towing fees with an insurer's check.
- 6) Requires a storage facility, as defined, to be open and accessible during normal business hours. Outside of normal business hours the facility must provide a telephone number that permits the caller to leave a message. Calls to this number must be returned no later than six business hours after the message has been left.

- 7) Updates the Towing and Storage Fees and Access Notice to include the legal changes reflected in this bill.
- 8) Defines insurer to mean either a first-party or third-party insurer.
- 9) Specifies that the provisions in this bill do not apply to a new motor vehicle dealer.

**EXISTING LAW:**

- 1) Prohibits a fee or service charge for parking and storage on a vehicle after the first 15 days, and three days after notice has been sent by the person in possession to the legal owner by certified mail, when the name and address of the legal owner of a motor vehicle is known, or may be ascertained from the registration records in the vehicle or from the records from DMV, unless the vehicle is stored under the authority of the judicial process.
- 2) Allows the costs of notifying the legal owner to be charged as part of the storage fee if the notice is given no sooner than the third day of possession, unless the vehicle is stored under the authority of the judicial process.
- 3) Provides that an owner of a motor vehicle can bring suit against any charges after fifteen days. The prevailing party is entitled to reasonable attorney's fees, not to exceed \$1,750, in addition to any other right, remedy or cause of action, unless the vehicle is stored under the authority of the judicial process.
- 4) Requires an insurer that is responsible for the coverage of ordinary and reasonable towing and storage charges to be liable for those charges when a vehicle is towed and stored as a result of an accident or stolen recovery.
- 5) Requires a law enforcement agency, city, county, city and county, the state, a tow yard, storage facility, or an impounding yard, that charges for towing or storage, except for storage unrelated to a tow, to do all of the following:
  - a) Except for an automotive repair dealer, post in the office area of the storage facility the Towing Fees and Access Notice, and have copies readily available to the public.
  - b) Notify the public on any itemized invoice about the Towing Fees and Access Notice.
- 6) Requires an itemized invoice to be provided for the actual charges to the vehicle owner or his or her agent.
- 7) Requires a vehicle owner or his or her agent or a licensed reposessor to have the right to the following:
  - a) Receive his or her personal property, at no charge, during normal business hours - 8:00 a.m. to 5:00 p.m., Monday through Friday, except state holidays;
  - b) Retrieve his or her vehicle during the first 72 hours of storage and not pay a lien fee; and,
  - c) Be permitted to pay by cash or valid bank credit card. An insurer or insurer's agent is also permitted to pay by bank draft.

8) Specifies what language is in the Towing Fees and Access Notice.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

*Author's Statement:* According to the author, "AB 2392 would make a number of clarifications and changes to close loopholes in California's towing and vehicle storage law to reduce abusive practices aimed at inflating storage fees. Many of the changes are modeled on CHP's practices to enhance California's law which was designed to protect California consumers."

*The Cost of Fees:* According to the Property Casualty Insurer's Association, car insurance rates in the U.S. are inflated by as much as \$616 million a year because of unnecessary fees charged for towing cars from accidents. The California Legislature has taken several steps to reduce a number of anti-consumer behaviors by some towing and storage companies, including the passage of AB 519 (Solorio), Chapter 566, Statutes of 2010, which required towing companies to provide consumers a Towing Fees and Access Notice and an itemized invoice of all towing and storage fees.

Supporters of this bill provided multiple invoices where insurance companies were charged hundreds of dollars of additional fees, including a fee as high as \$150 to open a gate and a \$280 fee for an "extra person" that was later removed.

In order to protect against unreasonable fees, this bill seeks to clarify what fees are considered reasonable and what fees are not. Fees that are no higher than those charged to the CHP or local law enforcement agencies will automatically be considered reasonable. However tack-on fees, security fees, dolly fees, load and unload fees, pull-out fees, and certain gate fees are defined as unreasonable.

*Delaying the Inevitable:* Insurance companies are claiming some storage and towing services are using delaying tactics as a means of keeping a vehicle longer for higher charges. For example, towing companies are refusing to take insurance checks, are not accessible during normal business hours, or are not returning phone calls from insurance companies.

In the past, the Legislature has required storage and towing facilities to be open during a defined period of time and are required to accept credit cards or cash. This bill will also require these facilities to accept an insurance check as a form of payment. In addition, this bill requires these facilities to have a phone that has voicemail, and requires them to return a phone call from an insurance agent within six business hours.

*Open to Debate:* It is the understanding of this committee that this bill is under negotiation between the insurance industry and the towing industry. The main issue still up for discussion is a requirement that towing and storage facilities allow an insurance agent to have access to a vehicle in storage for an unspecified amount of time. Both sides are negotiating how long that time should be.

*Related Legislation:* AB 2656 (Chen) requires towing and storage facilities to accept a debit card from licensed repossessioners. AB 2656 is set to be heard by this committee on April 23, 2018.

*Prior Legislation:* AB 519 (Solorio), Chapter 566, Statutes of 2010, required towing companies to provide consumers a Towing Fees and Access Notice and an itemized invoice of all towing and storage fees.

AB 515 (Hagman), Chapter 322, Statutes of 2009, made numerous changes to the Collateral Recovery Act, including requiring impound agencies to accept a valid bank credit card or cash.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

American Civil Liberties Association of California  
American Insurance Association  
National Association of Mutual Insurance Companies  
Pacific Association of Domestic Insurance Companies  
Personal Insurance Federation of California  
Property Casualty Insurers  
United Ways of California  
Western Center on Law and Poverty

**Opposition**

California State Sherriff's Association

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