

Date of Hearing: March 27, 2023

ASSEMBLY COMMITTEE ON TRANSPORTATION

Laura Friedman, Chair

AB 1082 (Kalra) – As Amended March 21, 2023

SUBJECT: Authority to remove vehicles

SUMMARY: Repeals the authority to tow a vehicle or install a device designed to immobilize a vehicle for having five or more unpaid parking tickets or traffic tickets and makes various reforms to requirements on processing agencies to offer payment plans for parking tickets in order to use the Department of Motor Vehicles (DMV) for collection purposes. Specifically, **this bill:**

- 1) Repeals various sections related to notice requirements and lien sales related to vehicles impoundment for reasons related to unpaid parking and traffic tickets.
- 2) Requires processing agencies to offer installment payment plans to indigent persons regardless of the total amount of parking tickets owed to the processing agency if they want to use DMV for collections purposes.
- 3) Removes the restriction on a person to file a request to participate in a payment plan in a period of 120 calendar days from the issuance of a notice of parking violation or 10 days after the administrative hearing determination and makes various changes related to this change that have to be posted on the processing agencies website if they want to use DMV for collections purposes.
- 4) Requires a processing agency to waive an unpaid parking penalty, including a service fee or late fee, for a vehicle if the registered owner was in custody in a juvenile facility, county jail, or state prison when the penalty was pending if they want to use DMV for collections purposes.
- 5) Requires a processing agency to offer a payment plan option for persons other than indigent persons that does all of the following if they want to use DMV for collections purposes:
 - a) Allows payment of an unpaid parking penalty and related service fees in monthly installments over a period of at least 12 months. There shall be no prepayment penalty for paying off the balance prior to the payment period expiring.
 - b) Allows for automatic payments.
 - c) Limits the processing fee to participate in the payment plan to twenty-five dollars (\$25) or less.
 - d) Does not set a deadline following the issuance of a parking ticket for a person to file a request to participate in a payment plan.
- 6) Requires a processing agency to provide a courtesy warning notice to the registered vehicle owner 60 days prior to filing an itemization with DMV if they want to use DMV for collections purposes.

EXISTING LAW:

- 1) Authorizes a peace officer or 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, to remove a vehicle if it has five or more unpaid parking or traffic tickets (Vehicle Code Section (VEH) 22651)
- 2) Places requirements on proof of payment in order to retrieve the vehicle if it was impounded for unpaid traffic or parking tickets and authorizes the lien sale of impounded vehicles should payments not be made in a specified time (VEH 22651)
- 3) Provides several options to processing agencies collecting unpaid parking penalties for tickets, including filing an itemization of unpaid parking penalties and service fees with DMV for collection with the registration of a vehicle, so long as the processing agency:
 - a) Provides a payment plan option for indigent persons, as defined, that allows unpaid parking fines and fees to be paid off in monthly installments of no more than \$25 for total amounts due that are \$500 or less, in a period within 24 months. No prepayment penalty for paying off the balance prior to the payment period may be accessed.
 - b) Waives all late fees and penalty assessments, exclusive of any state surcharges, as defined, if an indigent person enrolls in the payment plan. Waived late fees and penalty assessments may be reinstated if the person falls out of compliance with the payment plan.
 - c) Limits the processing fee to participate in a payment plan to \$5 or less for indigent persons and \$25 or less for all other persons. The processing fee may be added to the payment plan amount at the discretion of the payee; and,
 - d) Allows the application for indigency determination for a period of 120 calendar days from the issuance of a notice of parking violation, or 10 days after the administrative hearing determination, whichever is later (VEH 40220)
- 4) Requires a processing agency to allow a registered owner or lessee who falls out of compliance with a payment plan a one-time extension of 45 calendar days from the date the plan becomes delinquent to resume payments before the processing agency files an itemization of unpaid parking penalties and service fees with DMV. (VEH 40220).
- 5) Requires a processing agency to include information regarding its payment plan option above on its public website, and a web page link and telephone number to more information on the program (VEH 40220)
- 6) Defines “indigent” for the purposes of this section to mean anyone who meets the income requirements for or is currently on several public assistance programs, including: Supplemental Security Income (SSI), Supplemental Nutrition Assistance Program (SNAP, or more commonly known as food stamps), Medi-Cal or IHSS (VEH 40220).

FISCAL EFFECT: Unknown

COMMENTS: California law authorizes the government to impound and eventually sell your vehicle for failing to pay parking tickets and traffic tickets. Unpaid parking and toll violations can be placed on a person's vehicle registration, compounding a person's potential inability to pay their vehicle registration, which may also result in their vehicle being impounded if the registration is not paid within six months.

This bill attempts to remedy the financial harms that may come from an inability to pay by removing the authority to tow a vehicle for unpaid parking and traffic tickets, removing the authority to immobilize a vehicle for having unpaid parking tickets, restricting processing agencies from using DMV for collections purposes until the vehicle has accumulated six or more parking tickets, and making it easier for all persons (including indigent persons) to enroll in payment plans for parking tickets.

According to the author, "California has been a national leader in ending policies that disproportionately punish people experiencing poverty, recognizing that these laws do not make individuals more likely to pay but instead trap them in debt and create barriers to financial stability. Vehicle tows and immobilizations result in snowballing consequences that threaten people's stability and well-being, as well as undermine our state's economic equity goals. AB 1082 will help cities actually collect unpaid ticket fees and allow California to continue leading the way in ending poverty tows so that working families can continue to drive to work, pay their rent and bills, and provide for their families."

The cost of fines and fees associated with traffic and parking citations has steadily increased over the last few decades. After adding on fees to base fines, tickets can total in the hundreds of dollars. Add-on fees for minor offenses double or quadruple the original fine, and until recently California suspended driver's licenses for failure to pay traffic fines.

Under current law, local agencies can use DMV to collect unpaid debt on parking tickets, by requiring full payment of unpaid parking tickets and related fees in order for a person to renew their vehicle's registration. After six months, a vehicle can be towed for an expired registration. For indigent individuals, fees accumulating on top of one another can create a cycle of debt where they are unable to pay back parking fines, and then receive additional fines for driving an unregistered vehicle and an increased vehicle registration fee for late payments.

The cost of late payment of a parking ticket could easily spiral out of control for an indigent person. In San Francisco, the parking ticket for overstaying in a residential zone is \$102 and the fine for failing to move your car during street cleaning is \$90. If someone is unable to pay that ticket on time, the late fee adds an additional \$53. If San Francisco then were to ask DMV to collect the unpaid debt, DMV would add the entire cost of the outstanding parking ticket and fines to vehicle registration fees. If someone were unable to pay this amount all at once on top of their vehicle registration fees, late fees for vehicle registration increase by 60% of the original fee for payments over 30 days late, which can increase the registration fee as much as \$100. If a person is then pulled over for having an unregistered vehicle, the fine for driving unregistered vehicles is currently \$285. All totaled, these fines and late fees alone add up to \$540. This would amount to over a third of a single individual's monthly income if they made the maximum amount of money to be eligible for Medi-Cal.

Recovering a vehicle after it has been towed is expensive. *Towed into Debt* notes that the average tow fee in California is \$189, with a \$53 storage fee per day and a \$150 administrative fee. After three days of storage a towing fee could come out to \$499. If a vehicle was towed for having five or more unpaid parking violations or for vehicle registration purposes, the individual must also pay the unpaid parking debt and vehicle registration before they can retrieve their vehicle.

A San Francisco resident with five or more delinquent tickets would have to pay \$775 to pay off all of the tickets to retrieve a vehicle. In total, a three day tow plus paying off all of the parking tickets would result in a total cost of \$1,273, or nearly all of someone's monthly income who makes the maximum amount of money to qualify for Medi-Cal. If that individual somehow had enough savings to afford that type of fee, recovering the vehicle may not even be worth it, as 46% of all cars registered in California are worth less than \$5,000.

According to *Towed into Debt*, the average lien sale of a vehicle towed for parking tickets or registration is \$797.17, more than \$400 less than the cost recovery of a vehicle stowed for only three days, and \$2,400 less than the fees owed at the time of the sale. The average sale of these cars results in no revenue for the local authority who authorized the tow to begin with.

Cities in the United States are often designed around having a vehicle and public transit is often inadequate, resulting in people needing cars to get to work, home, and school. As *Towed into Debt* highlights, owning a vehicle is identified as the second biggest barrier to employment, behind reliable child care; owning a vehicle plays a bigger role in getting a job than having a high school diploma, and people with a car are almost twice as likely to remain employed over a full 18 to 24 months period than workers without a car. Therefore, towing someone's car can have detrimental effects if on someone if they are unable to recover it, such as the loss of their job. It is estimated that one-third of the estimated 39,000 homeless individuals in Los Angeles live in vehicles. For these individuals, towing their car could result in a loss of their only shelter.

According to Western Center on Law and Poverty, a co-sponsor of this bill, "The impact of excessive debt, license suspensions, towing, and DMV registration holds has had a devastating financial impact on low-income communities. These collective policies have stripped billions of dollars in resources from our poorest families leading to the loss of their vehicle, their ability to get to work, and their ability to meet their basic needs like grocery shopping, taking children to school, or going to medical appointments. It has also left a trail of debt for those unable to pay the fines and fees, with approximately \$8 billion owed to courts for unpaid traffic tickets."

Cities use parking tickets to manage congestion. The parking meter was invented in 1935 in Oklahoma City. According to the Encyclopedia of Oklahoma History and Culture, "

The problem was that people worked downtown occupied all of the parking spots every day, forcing retail customers to park far away from stores. The city had placed time limits on parking, with enforcement performed by traffic police who chalked tires, marked time, and gave tickets on hourly rounds. The parking situation came under scrutiny by the Oklahoma City Chamber of Commerce in 1932. Appointed chair of the Traffic Committee, Magee assumed the task of solving the problem. Magee decided that the situation required the invention of a small, windable, inexpensively made, mechanical device to "time" the use of each parking space....on July 16, 1935, 175 meters were installed and tested on fourteen blocks in Oklahoma City, and when the system proved successful, the city placed meters all over downtown.

The impact of the parking meter was threefold. First, it straightened out Oklahoma City's parking problem. Second, it brought revenue into the city coffers through meter money and parking fines. Third, it stimulated a huge growth in assessed valuation of downtown commercial property.”

Cities use parking tickets today to reduce congestion in downtown areas, ensure local residents have a place to park, enable people to park near retail stores for a limited period of time, to prevent individuals from parking in spaces for emergency vehicles, keep open spots for people with disabilities, and ensure that non electric vehicles are not parking in spots meant for electric vehicles to charge.

The California Mobility and Parking Association, writing in opposition this bill, argues “As a parking professional, I have deep concerns that this legislation will have the unintended consequence of neutralizing parking enforcement efforts. At their fundamental core, parking enforcement programs are designed to ensure compliance of local and state parking regulations to facilitate availability of parking spaces throughout the city, which supports local businesses and events. Many agencies have conducted extensive research to determine appropriate permitted parking spaces for residential areas to ensure available parking for residents, as well as time-limited parking in business and high turnover zones to assist tourism and commerce to generate sales tax revenue for our schools, public safety, and other universal municipal services. Local governments also adopt and enforce parking rules related to street sweeping, tree trimming, sidewalk repair and public transportation zones.

Under AB 1082, agencies will be left with few effective mechanisms to bolster compliance with posted parking rules.

The problem with free parking: Most parking in the United States is free. In order to accommodate car use, cities have dedicated exorbitant amounts of land to cars. The County of Los Angeles has dedicated around 200 square miles to parking, the land mass of Brooklyn, Manhattan, San Francisco, and the Bronx combined (home to 6.5 million people).

University of California Los Angeles urban planner Donald Shoup in his book *The High Cost of Free Parking* describes parking as “desirable in most locations, but you can have too much of a good thing. The principle that ‘the dose makes the poison’ applies perfectly to parking. By prescribing massive overdoses of parking spaces, planners are poisoning the city. Planning for parking has caused severe adverse reactions, and if a policy is judged by its consequences, off-street parking requirements are a catastrophe....The many significant costs related to current parking policies (e.g., increased housing prices, unjust subsidies for cars, distorted transportation choices, sprawl, social inequity, and economic and environmental degradation) are not a consideration.”

Shoup proposes “market-priced curb parking [to] save time, reduce congestion, conserve energy, improve air quality, and produce public revenue[and] returning all meter revenue to the neighborhoods that generate it.”

Committee comments: The purpose of this bill is to eliminate the negative consequences of a person accumulating too many parking tickets, particularly low income individuals who simply cannot afford the cost of the tickets. The bill addresses this problem in two ways. First, it eliminates the authority for cities to impound or immobilize vehicles for unpaid traffic or parking ticket debt. Second, this bill does not allow cities to use DMV as a collection agent for parking tickets until a person has six or more tickets.

Cities issue parking to manage their parking spaces and potentially reduce car congestion, especially in dense downtown areas that may be better oriented towards walking, biking and public transit.

While this bill eliminates a cities' ability to tow or immobilize a vehicle for unpaid parking tickets, a person could ultimately suffer that consequence when unpaid parking tickets are shifted to their vehicle registration and they still fail to pay. By removing, local parking agencies ability to tow or immobilize a vehicle, this bill creates a new problem by making it impossible to enforce payment of tickets on out-of-state vehicles. This is because without a California vehicle registration local agencies lack an enforcement mechanism. As this bill moves forward, the Legislature may want to consider either restoring the authority to immobilize vehicles or impound vehicles that are not registered in the state to ensure parking tickets can be enforced on out-of-state vehicles.

It is important that individuals be given an opportunity to pay for parking tickets and not risk their vehicles being taken from them solely because they lack the ability to pay. To address this issue, the Legislature passed AB 503 (Lackey), Chapter 741, Statutes of 2017 to require cities to waive late fees for persons on public benefits and establish an affordable payment plan of \$25 a month.

One of the drawbacks of that legislation was it placed a ceiling on the number of parking tickets that are eligible for relief from late fees and payment plans. The Legislature has since adjusted the ceiling to \$500.

This bill eliminates the \$500 ceiling, but in doing so creates a new potential problem. The law specifies that payment plans are capped at \$25 a month over the course of two years. By lifting the \$500 cap, a person could continue to accumulate seven days of parking tickets and would not have to worry about the consequences of a ticket after that because as long as they enroll in a payment plan those fees above \$600 will be waived. The typical parking garage in San Francisco is \$340 a month. Writing off parking tickets after \$600 would essentially make it cheaper to accumulate parking tickets than pay for two months' worth of parking, eliminating the ability for a city to discourage driving downtown. Should this bill move forward lifting the, the Legislature and the author may want to consider either increasing the cap to \$600 to better reflect the total value of tickets paid out at \$25 a month over the course of two years, or should consider eliminating the restriction of payment plans being capped at two years and instead allow the payment plan to continue indefinitely until the debt is paid off.

This bill limits a local government's ability to use the DMV as a collection agency until an individual has received six or more unpaid tickets. Current law allows local agencies to use the DMV as a collection agency on any number of tickets. This bill requires processing agencies to notify car owners that they will be transferring the unpaid debt to a person's vehicle registration, giving them one last opportunity to enroll in a payment plan before they have to pay the fees with their registration.

Limiting local governments' ability to use the DMV as a collection agency may pose a new problem for local governments. It could result in cities losing a tool to manage their downtowns because it would allow some people to never pay their parking tickets. For example, one-time visitors to an area may opt not to pay for parking and receive a parking ticket knowing they will not have to worry about ultimately paying for that parking ticket when they pay their vehicle registration.

Related legislation:

AB 962 (Ta) of 2023 Requires a peace officer or employee to verify with the DMV that no current vehicle registration exists before towing a vehicle for having expired registration longer than six months and prohibits the vehicle from being towed if the officer or employee does not have immediate access to those records. That bill is set for a hearing in this committee today.

Previous legislation:

AB 2544 (Lackey), Chapter 494, Statutes of 2018), AB 503 (Lackey), Chapter 741, Statutes of 2017, and AB 3277 (Jones Sawyer), Chapter 44, Statutes of 2020 requires processing agencies to take several steps prior to asking DMV to collect their unpaid debt from indigent individuals, including establishing a payment program and waiving late fees and penalty assessments.

AB 1685 (Bryan) of 2022 would have required processing agencies to forgive at least \$1,500 in parking tickets for individuals who are verified to be homeless if the processing agency wants to use the DMV to place a hold on a person's vehicle registration until they pay unpaid parking tickets. That bill was vetoed by the Governor.

AB 516 (Chiu, 2019), Repeals existing law that authorizes peace officers to tow vehicles for having five or more delinquent parking or traffic violations, for leaving a vehicle on a road for 72 or more consecutive hours, and for a having a lapsed vehicle registration in excess of six months. That bill died in Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action
Alliance for Boys and Men of Color
Bay Area Legal Aid
Californians for Safety and Justice
Communities United for Restorative Youth Justice (CURYJ)
Community Legal Services in East Palo Alto
East Bay Community Law Center
End Poverty in California (EPIC)

Family Violence Appellate Project
Freefrom
Futures Without Violence (UNREG)
Housing and Economic Rights Advocates
Housing California
Indivisible CA Statestrong
Lawyers' Committee for Civil Rights of The San Francisco Bay Area
Legal Aid Foundation of Los Angeles
Legal Aid of Marin
National Lawyers Guild San Francisco Bay Area Chapter
Neighborhood Legal Services of Los Angeles County
Public Counsel
Techequity Collaborative
Western Center on Law & Poverty, INC.

Oppose

California Association of Highway Patrolmen
California Mobility and Parking Association
California State Sheriffs' Association

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