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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair  
2019 - 2020 Regular Session

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### AB 516 (Chiu) - Authority to remove vehicles

**Version:** July 2, 2019

**Urgency:** No

**Hearing Date:** August 12, 2019

**Policy Vote:** TRANS. 9 - 2, PUB. S. 4 - 2

**Mandate:** Yes

**Consultant:** Mark McKenzie

**Bill Summary:** AB 516 would delete the authority for law enforcement and local officials to tow and impound, or immobilize a vehicle that has five or more delinquent parking tickets or traffic violations, as specified. The bill would also modify the authority for those entities to tow and impound a vehicle left standing on a road for 72 hours or more in violation of a local ordinance by extending that time to five or more business days after a specified notice is affixed to the vehicle.

#### **Fiscal Impact:**

- The California Highway Patrol (CHP) estimates that the bill would result in unknown, potentially significant costs to create and print new notices of intent to tow a vehicle. The requirement to include information on local safe parking options and available homelessness services would drive additional expense and complications as CHP would need to create and print multiple versions of the notice to account for parking options and services provided on the local jurisdiction level. In addition, the notices would require updating as available parking options and services change. (Motor Vehicle Account)
- Unknown, potentially significant local costs for law enforcement and parking officials to include information on local safe parking options and available homelessness services on notices affixed to vehicles parked in violation of local ordinances. To the extent a local agency files a successful claim with the Commission on State Mandates, these costs would be state-reimbursable. See Staff Comments. (General Fund)
- Unknown reduction in state and local parking citation revenues, to the extent the bill removes a deterrent and collection tools for delinquent tickets. While the bill is intended to address an issue that has disproportionate impacts on low-income persons, it bill applies to all vehicles regardless of an individual's ability to pay delinquent tickets or towing and storage fees. (local funds, State University Parking Revenue Fund, other funds administered by state institutions of higher education)

**Background:** Existing law authorizes peace officers and parking enforcement officials to tow a vehicle under numerous specified circumstances, including if the vehicle has five or more delinquent parking tickets or five or more notices of failure to pay or failure to appear in court for traffic violations, or if the vehicle is parked or left standing on a highway for 72 or more hours in violation of a local ordinance. A vehicle found to have five or more delinquent parking or traffic tickets may be impounded until the vehicle owner shows evidence that all parking penalties and traffic violations have been cleared, and pays the cost of towing and storing the vehicle. A vehicle impounded

under these provisions that is not released to the owner may be sold to satisfy liens to recover towing and storage costs and bail for all outstanding parking violations, with the lien for unpaid parking tickets subordinate to the lien satisfying towing and storage costs.

Existing law also authorizes peace officers and parking enforcement officials to immobilize a vehicle, as an alternative to removal, if the vehicle has five or more delinquent parking tickets or five or more notices of failure to pay or failure to appear in court for traffic violations. The vehicle may remain immobilized until all parking and traffic tickets have been paid, as specified.

Existing law authorizes an agency that processes notices of parking violations and delinquent parking violations, after completing specified collection efforts, to file an itemized list of unpaid parking penalties and service fees with the Department of Motor Vehicles (DMV) for collection when a vehicle owner attempts to register his or her vehicle. Existing law requires DMV, after receiving an itemized list of a person's unpaid parking penalties and fees, to refuse to renew their vehicle registration, or to issue or renew a driver's license to that person until all outstanding penalties and fees are paid. Existing law prohibits a processing agency from referring an itemized list of unpaid tickets to DMV to collect on delinquent amounts unless a payment plan is provided for indigent persons, as specified. The payment plan must allow monthly installments of no more than \$25 for total amounts due that are \$300 or less, and provide a waiver of all late fees and penalty assessments, exclusive of state surcharges, as specified.

**Proposed Law:** AB 516 would repeal the authority for peace officers and parking enforcement officials to do the following:

- Tow and impound a vehicle with five or more delinquent parking violations tickets, or five or more notices of failure to pay or failure to appear in court for traffic violations.
- Sell an unclaimed vehicle that is towed and impounded under those circumstances in order to satisfy liens to recover towing and storage costs, and bail for all unpaid parking tickets.
- Immobilize a vehicle with five or more delinquent parking violations tickets or five or more notices of failure to pay or failure to appear in court for traffic violations impacts.

The bill would also revise the authority for peace officers and parking enforcement officials to tow and impound a vehicle that is parked or left standing on a highway for 72 or more hours in violation of a local ordinance. Specifically, the bill would authorize removal of the vehicle only if it remains parked for five or more business days after a notice is affixed to the vehicle that includes the following information:

- The date of the notice, the location of the vehicle, and the date and time after which the vehicle may be removed.
- Information on alternative safe parking options and information on available resources within the jurisdiction for persons experiencing homelessness.

**Related Legislation:** SB 405 (Hertzberg), Chap. 385/2015, eliminated the requirement to pay all penalties and fines for certain traffic violations up front, and allowed an individual to schedule a court hearing prior to payment.

AB 503 (Lackey), Chap. 741/2017, and AB 2544 (Lackey), Chap. 494/2018, prohibited a processing agency from referring an itemized list of unpaid tickets to DMV to collect on delinquent amounts unless a payment plan is provided for indigent persons, as specified.

AB 2876 (Jones-Sawyer), Chap. 592/2018, clarified that the protections against the removal and subsequent storage of a vehicle, as authorized by California statute, must be reasonable under the Fourth Amendment and California Constitution, such as for “community caretaking” purposes.

**Staff Comments:** This bill impose a state-mandate on local law enforcement and parking officials by requiring notices of intent to tow a vehicle parked in violation of a local ordinance to include specified information on alternative safe parking options and information on available resources within the jurisdiction for persons experiencing homelessness. It is unclear whether these costs would be deemed state-reimbursable, to the extent local agencies have the authority to adjust revenues to offset those costs. For example, local agencies have the authority to establish the schedule of parking penalties within its jurisdiction, and may be able to adjust the penalties for parking violations to cover any increased local costs associated with the bill. Whether the state is ultimately responsible for reimbursement of local costs would be subject to a determination by the Commission on State Mandates.

**-- END --**