

MEMORANDUM

Date: July 11, 2017
To: Council Members, Sean McGlynn, Gloria Hurtado, Sue Gallagher, Daisy Gomez
From: Joshua Damron
Subject: Oppose AB 503

Attached is the letter of opposition for AB 503 (Lackey) Vehicles: parking violations

Due to the time constraints and a matter of urgency, the Mayor has signed this letter and it has been sent to the appropriate Committee/Member. You are receiving a copy of the letter and bill, as per Council Policy 000-40.



June 13, 2017

The Honorable Jim Frazier, Chair
Assembly Transportation Committee
1020 N Street, Room 112
Sacramento, CA

RE: Assembly Bill 503 (Lackey) Parking Violations, Notice of Opposition Unless Amended

The City of Santa Rosa regrettably opposes Assembly Bill 503 (Lackey) which would require local agencies to decrease parking violation fees according to the driver's ability to pay. Under current law, most local agencies already are allowed to reduced payments over time, and such requests are routinely granted.

CHRIS COURSEY
Mayor

JACK TIBBETTS
Vice Mayor

JULIE COMBS
ERNESTO OLIVARES
CHRIS ROGERS
JOHN SAWYER
TOM SCHWEDHELM

AB 503 would require the use of a "sliding scale" for payment of parking violation fees tailored to individual drivers. Under this measure, local agencies would be required to assess the driver's financial capabilities using criteria including proof of earnings, rent, a bank statement or grocery receipts. Under most circumstances, parking enforcement agencies currently cater to the particular needs of the driver in an attempt to arrive at a mutually beneficial payment arrangement that is not overly burdensome or untenable. Often, motorists will make payments over a series of weeks or even months until the full amount is remitted to the agency. Under no circumstances do local agencies currently lower or adjust the amount of the violation. The current system is largely automated and uniform for all drivers, and local agencies can offer payment plans to whomever desires the option. Local agencies do not have the staff, resources or expertise to assess "ability to pay" for individual drivers.

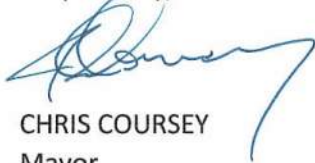
This measure offers special treatment to the drivers who have ignored or neglected their outstanding parking tickets to the point that the Department of Motor Vehicles has withheld their vehicle registration tags. Prior to this action, local agencies have exhausted all possible avenues of communication with these drivers. In these cases, the driver has actively decided to disregard three (3) notices (including a FINAL notice) from the local agency warning of the impending hold on their vehicle registration. In order to remove the hold on their registration, the driver is currently required to pay all outstanding parking fees prior to the payment of their registration fees. This bill rewards the drivers who have opted to ignore their obligated payments and provides a reduced fee using a "sliding scale."

This measure also removes the option of intercepting a tax refund to collect outstanding balances for parking violations. Without this tool, local agencies would continue to send notices seeking voluntary compliance with no ability to collect.

The City suggests an amendment facilitating the payment of required fines, penalties and registration on a monthly plan at the State level. This plan should be available to all drivers, regardless of income level, and would be more efficient than requiring the establishment of several hundred stand-alone, independent local programs.

For these reasons, the City of Santa Rosa regrettably opposes this legislation, unless it is amended. We applaud your motives in bringing this measure forward. If you have any questions regarding the City's position on this bill, please contact Kim Nadeau at 707-543-3325.

Respectfully,

A handwritten signature in blue ink, appearing to read "Chris Coursey", written over a light blue horizontal line.

CHRIS COURSEY
Mayor

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AB-503 Vehicles: parking violations: registration or driver's license renewal. (2017-2018)

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Date Published: 05/27/2017 10:00 AM

AMENDED IN ASSEMBLY MAY 26, 2017

AMENDED IN ASSEMBLY MAY 03, 2017

AMENDED IN ASSEMBLY APRIL 04, 2017

AMENDED IN ASSEMBLY MARCH 21, 2017

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL**No. 503**

Introduced by Assembly Member Lackey
(Coauthors: Assembly Members Baker, Daly, and Cristina Garcia)
(Coauthor: Senator Hertzberg)

February 13, 2017

An act to amend Sections 4760, 21107.8, 40215, and 40220 of, and to repeal Section 12808.1 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 503, as amended, Lackey. Vehicles: parking violations: registration or driver's license renewal.

(1) Existing law, with specified exceptions, requires an agency that processes notices of parking violations and notices of delinquent parking violations to proceed under only one of 3 specified options in order to collect an unpaid parking penalty, including filing an itemization of unpaid parking penalties and service fees with the Department of Motor Vehicles for collection with the registration of the vehicle.

This bill would instead authorize a processing agency to proceed under one of those 3 specified options. With regard to the option involving an itemization of penalties and fees, the bill would authorize a processing agency to file that itemization only after the issuing agency provides a payment plan option for indigent persons, as specified, the processing agency provides notice to the registered owner or lessee informing him or her of the option to enroll in a payment plan to pay the unpaid parking penalties if he or she is indigent, and the registered owner or lessee fails to enroll in the payment plan within the time specified in the notice or is not eligible for the payment plan, as specified. The bill would authorize a person to demonstrate that he or she is indigent by providing specified information relating to, among other things, income, or benefits or services under certain social services programs. The bill would require the processing agency to rescind the filing of an itemization of unpaid parking penalties and service fees with the department if the registered owner or lessee subsequently enrolls in a payment plan.

(2) Existing law, with specified exceptions, requires the department to refuse to renew the registration of a vehicle if the registered owner or lessee has been mailed a notice of a delinquent parking violation relating to standing or parking, the processing agency has filed or electronically transmitted to the department an itemization of unpaid parking penalties, and the owner or lessee has not paid the parking penalties, unless he or she pays to the department, at the time of application for renewal, the full amount of all outstanding parking penalties and administrative fees, as shown by records of the department.

This bill would add an exception to the requirement to refuse to renew the registration if the itemization of unpaid parking penalties has been rescinded. *The bill would also require the department to allow a registered owner or lessee to file a certification that the vehicle will not be operated, moved, or left standing upon a highway if the registered owner or lessee currently owes parking penalties and administrative fees for that vehicle, regardless of whether or not that registered owner or lessee is currently on an active payment plan, as specified.*

(3) Existing law requires the Department of Motor Vehicles to refuse to issue or renew a driver's license if the applicant has been mailed a notice of his or her delinquent parking violation relating to standing or parking, the processing agency has filed or electronically transmitted to the department an itemization of unpaid parking penalties, including administrative fees, and the applicant has not paid the parking penalty and administrative fee, unless the applicant pays to the department, at the time of application, the full amount of all outstanding parking penalties and administrative fees, as shown by records of the department.

This bill would repeal that provision and make a conforming change.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

- (a) It is sound public policy to remove barriers that prevent Californians from registering their vehicles.
- (b) Adding the cost of parking violations to the total cost of registering a motor vehicle can prevent indigent Californians from being able to afford their registration fees. Furthermore, failure to register a vehicle reduces revenue for the state and local governments.
- (c) Currently, drivers who are unable to pay their parking tickets have no guaranteed right to set up a payment plan or have their tickets and penalties reduced if they are considered indigent.
- (d) Drivers who are unable to pay their parking tickets and who then lapse behind on their registration fees are subjected to increased fines and fees that are difficult to recover from.
- (e) These same drivers are barred from filing an affidavit of nonuse in order to prevent the increase in registration fines and fees and are subject to penalties exceeding 100 percent of the original registration fee.

SEC. 2. Section 4760 of the Vehicle Code is amended to read:

4760. (a) (1) Except as provided in subdivision (b) or (d), the department shall refuse to renew the registration of a vehicle if the registered owner or lessee has been mailed a notice of delinquent parking violation relating to standing or parking, the processing agency has filed or electronically transmitted to the department an itemization of unpaid parking penalties, including administrative fees pursuant to Section 40220, and the owner or lessee has not paid the parking penalty and administrative fee pursuant to Section 40211, unless he or she pays to the department, at the time of application for renewal, the full amount of all outstanding parking penalties and administrative fees, as shown by records of the department, or the itemization of unpaid parking penalties has been rescinded pursuant to Section 40220.

(2) When the department receives the full amount of all outstanding parking penalties and administrative fees pursuant to paragraph (1), it shall issue a receipt showing each parking penalty and administrative fee that has been paid, the processing agency for that penalty and fee, and a description of the vehicle involved in the parking violations. The receipt shall also state that, to reduce the possibility of impoundment under Section 22651 or immobilization under Section 22651.7 of the vehicle involved in the parking violation, the registered owner or lessee may transmit to that processing agency a copy or other evidence of the receipt.

(b) The department shall not refuse to renew the registration of a vehicle owned by a renter or lessor if the applicant provides the department with the abstract or notice of disposition of parking violation issued pursuant to subdivision (c) for clearing all outstanding parking penalties and administrative fees as shown by the records of the department.

(c) The court or designated processing agency shall issue an abstract or notice of disposition of parking violation to the renter or lessor of a vehicle issued a notice of delinquent parking violation relating to standing or parking if the renter or lessor provides the court or processing agency with the name, address, and driver's license number of the rentee or lessee at the time of occurrence of the parking violation.

(d) The department shall not refuse to renew the registration of a vehicle if the citation was issued prior to the registered owner taking possession of the vehicle.

(e) The department shall allow a registered owner or lessee to file a certification that the vehicle will not be operated, moved, or left standing upon a highway pursuant to Section 4604, if the registered owner or lessee currently owes parking penalties and administrative fees for that vehicle, regardless of whether or not that registered owner or lessee is currently on an active payment plan pursuant to Section 40220.

SEC. 3. Section 12808.1 of the Vehicle Code is repealed.

SEC. 4. Section 21107.8 of the Vehicle Code is amended to read:

21107.8. (a) (1) A city, county, or city and county may, by ordinance or resolution, find and declare that there are privately owned and maintained offstreet parking facilities as described in the ordinance or resolution within the city, county, or city and county that are generally held open for use of the public for purposes of vehicular parking. Upon enactment by a city, county, or city and county of the ordinance or resolution, Sections 22350, 23103, and 23109 and the provisions of Division 16.5 (commencing with Section 38000) shall apply to privately owned and maintained offstreet parking facilities, except as provided in subdivision (b).

(2) (A) If a city, county, or city and county enacts an ordinance or resolution authorized by paragraph (1), the city, county, or city and county may include in that ordinance or resolution authorization for the operator of a privately owned and maintained offstreet parking facility to regulate unauthorized parking in that facility.

(B) (i) If a city, county, or city and county has exercised its authority pursuant to subparagraph (A) and unauthorized parking is regulated in a privately owned and maintained offstreet parking facility, the owner or operator of that facility shall include in a parking fee invoice instructions that describe the manner in which to contest the parking fee invoice.

(ii) If a city, county, or city and county has exercised its authority pursuant to subparagraph (A) and unauthorized parking is regulated in a privately owned and maintained offstreet parking facility, the owner or operator of that facility shall not file with, or transmit to, the Department of Motor Vehicles a parking fee invoice for the purpose of having the Department of Motor Vehicles attempt to collect unpaid parking fees by refusing to renew the registration of a vehicle pursuant to Section 4760.

(b) (1) Notwithstanding subdivision (a), an ordinance or resolution enacted pursuant to that subdivision does not apply to an offstreet parking facility unless the owner or operator has caused to be posted in a conspicuous place at each entrance to that offstreet parking facility a notice not less than 17 by 22 inches in size with lettering not less than one inch in height, to the effect that the offstreet parking facility is subject to public moving vehicle laws and violators may be subject to a parking invoice fee.

(2) If applicable, a parking receipt distributed to drivers shall include language explicitly stating that violators may be subject to a parking invoice fee.

(c) An ordinance or resolution shall not be enacted pursuant to subdivision (a) without a public hearing on the matter and 10 days prior written notice to the owner and operator of the privately owned and maintained offstreet parking facility involved.

(d) Section 22507.8 may be enforced without enactment of an ordinance or resolution as required pursuant to subdivision (a) or the posting of a notice at each entrance to the offstreet parking facility as required by paragraph (1) of subdivision (b).

(e) The department shall not be required to provide patrol or to enforce any provision of this code in a privately owned and maintained offstreet parking facility subject to this section except those provisions applicable to private property actions not described in this section.

(f) A city, county, or city and county that authorizes private parking regulation pursuant to this section shall, in its ordinance or resolution, include provisions that include all of the following:

(1) Procedures for dispute resolution in accordance with Section 40215, including all of the following:

(A) A written and publicly available dispute resolution policy that includes specified time periods for notifications, review, and appeal.

(B) An administrative hearing process that includes all of the following:

(i) Options for a hearing in person or by mail.

(ii) Administrative review.

(iii) A hearing by a third-party examiner who has been adequately trained and who provides an independent, objective, fair, and impartial review.

(iv) Personal delivery or delivery by first-class mail of the examiner's decision.

(v) Authority for the examiner to allow payment of the parking invoice fee in installments for persons showing evidence of inability to pay the parking invoice fee in full.

(2) A prohibition against incentives based on the number of invoices issued or the number or percentage of disputed invoices adjudicated that uphold parking invoice fees.

(3) A cap on a parking invoice fee that is commensurate with the most nearly equivalent municipal parking fine.

(4) Measures to prevent a private parking regulator from representing itself as a government enforcement agency, including a prohibition against the use of terminology in ordinances, resolutions, and parking fee invoices that is restricted to governmental law enforcement and a requirement that a conspicuous statement be included on parking fee invoices to the effect that "This parking invoice fee notice is not issued by the [local government]."

SEC. 5. Section 40215 of the Vehicle Code is amended to read:

40215. (a) For a period of 21 calendar days from the issuance of a notice of parking violation or 14 calendar days from the mailing of a notice of delinquent parking violation, exclusive of any days from the day the processing agency receives a request for a copy or facsimile of the original notice of parking violation pursuant to Section 40206.5 and the day the processing agency complies with the request, a person may request an initial review of the notice by the issuing agency. The request may be made by telephone, in writing, or in person. There shall not be a charge for this review. If, following the initial review, the issuing agency is satisfied that the violation did not occur, that the registered owner was not responsible for the violation, or that extenuating circumstances make dismissal of the citation appropriate in the interest of justice, the issuing agency shall cancel the notice of parking violation or notice of delinquent parking violation. The issuing agency shall advise the processing agency, if any, of the cancellation. The issuing agency or the processing agency shall mail the results of the initial review to the person contesting the notice, and, if following that review, cancellation of the notice does not occur, include a reason for that denial, notification of the ability to request an administrative hearing, and notice of the procedure adopted pursuant to subdivision (b) for waiving prepayment of the parking penalty based upon an inability to pay.

(b) If the person is dissatisfied with the results of the initial review, the person may request an administrative hearing of the violation no later than 21 calendar days following the mailing of the results of the issuing agency's initial review. The request may be made by telephone, in writing, or in person. The person requesting an administrative hearing shall deposit the amount of the parking penalty with the processing agency. The issuing agency shall adopt a written procedure to allow a person to request an administrative hearing without payment of the parking penalty upon satisfactory proof of an inability to pay the amount due. For purposes of the written procedure, eligibility to participate in the sliding scale specified in Section 40220 shall constitute satisfactory proof of an inability to pay the amount due. An administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to this article. The person requesting the hearing may request one continuance, not to exceed 21 calendar days.

(c) The administrative hearing process shall include all of the following:

(1) The person requesting a hearing shall have the choice of a hearing by mail or in person. An in-person hearing shall be conducted within the jurisdiction of the issuing agency. If an issuing agency contracts with an administrative provider, hearings shall be held within the jurisdiction of the issuing agency or within the county of the issuing agency.

(2) If the person requesting a hearing is a minor, that person shall be permitted to appear at a hearing or admit responsibility for the parking violation without the necessity of the appointment of a guardian. The processing agency may proceed against the minor in the same manner as against an adult.

(3) The administrative hearing shall be conducted in accordance with written procedures established by the issuing agency and approved by the governing body or chief executive officer of the issuing agency. The hearing shall provide an independent, objective, fair, and impartial review of contested parking violations.

(4) (A) The issuing agency's governing body or chief executive officer shall appoint or contract with qualified examiners or administrative hearing providers that employ qualified examiners to conduct the administrative hearings. Examiners shall demonstrate those qualifications, training, and objectivity necessary to conduct a fair and impartial review. An examiner shall not be employed, managed, or controlled by a person whose primary duties are parking enforcement or parking citation, processing, collection, or issuance. The examiner shall be separate and independent from the citation, collection, or processing function. An examiner's continued employment, performance evaluation, compensation, and benefits shall not, directly or indirectly, be linked to the amount of fines collected by the examiner.

(B) (i) Examiners shall have a minimum of 20 hours of training. The examiner is responsible for the costs of the training. The issuing agency may reimburse the examiner for those costs.

(ii) Training may be provided through any of the following:

(I) An accredited college or university.

(II) A program conducted by the Commission on Peace Officer Standards and Training.

(III) American Arbitration Association or a similar established organization.

(IV) Through a program approved by the governing board of the issuing agency, including a program developed and provided by, or for, the issuing agency.

(iii) Training programs may include topics relevant to the administrative hearing, including, but not limited to, applicable laws and regulations, parking enforcement procedures, due process, evaluation of evidence, hearing procedures, and effective oral and written communication.

(iv) Upon the approval of the governing board of the issuing agency, up to 12 hours of relevant experience may be substituted for up to 12 hours of training. In addition, up to eight hours of the training requirements described in clause (i) may be credited to an individual, at the discretion of the governing board of the issuing agency, based upon training programs or courses described in clause (ii) that the individual attended within the last five years.

(5) The officer or person who issues a notice of parking violation shall not be required to participate in an administrative hearing. The issuing agency shall not be required to produce any evidence other than the notice of parking violation or copy of the notice and information received from the Department of Motor Vehicles identifying the registered owner of the vehicle. The documentation in proper form shall be prima facie evidence of the violation.

(6) The examiner's decision following the administrative hearing may be personally delivered to the person by the examiner or sent by first-class mail, and, if the notice is not cancelled, include a written reason for that denial.

(7) The examiner or the issuing agency may, at any stage of the initial review or the administrative hearing process, and consistent with the written guidelines established by the issuing agency, allow payment of the parking penalty in installments, or the issuing agency may allow for deferred payment, if the person provides evidence satisfactory to the examiner or the issuing agency, as the case may be, of an inability to pay the parking penalty in full. If authorized by the governing board of the issuing agency, the examiner may permit the performance of community service in lieu of payment of a parking penalty.

(d) The provisions of this section relating to the administrative appeal process do not apply to an issuing agency that is a law enforcement agency if the issuing agency does not also act as the processing agency.

SEC. 6. Section 40220 of the Vehicle Code is amended to read:

40220. (a) Except as otherwise provided in Sections 40221 and 40222, the processing agency may proceed under one of the following options in order to collect an unpaid parking penalty:

(1) (A) File an itemization of unpaid parking penalties and service fees with the department for collection with the registration of the vehicle pursuant to Section 4760. The processing agency shall not file an itemization pursuant to this subdivision unless all of the following conditions have been satisfied:

(i) The issuing agency provides a payment plan option for indigent persons that, at a minimum, does all of the following:

(I) Allows payment of unpaid parking penalties to be paid off in monthly installments over no less than 12 months.

(II) Creates a sliding scale to reduce the amount to be paid by indigent persons.

(III) Limits the processing fee to participate in a payment plan to five dollars (\$5) or less.

(ii) The processing agency informs the registered owner or lessee in the notice of parking violation that he or she has the option to enroll in a payment plan to pay the unpaid parking penalties if he or she is indigent.

(iii) The registered owner or lessee fails to enroll in the payment plan within the time specified in the notice or is not eligible for the payment plan because he or she is not indigent.

(B) The processing agency shall allow a registered owner or lessee who falls out of compliance with the payment plan a reasonable opportunity to resume payments before the processing agency files an itemization of unpaid parking penalties and service fees with the department pursuant to subparagraph (A).

(C) The processing agency shall rescind the filing of an itemization of unpaid parking penalties and service fees with the department if the registered owner or lessee subsequently enrolls in a payment plan.

(2) (A) If more than four hundred dollars (\$400) in unpaid penalties and fees have been accrued by any person or registered owner, proof thereof may be filed with the court with the same effect as a civil judgment. Execution may be levied and other measures may be taken for the collection of the judgment as are authorized for the collection of an unpaid civil judgment entered against a defendant in an action on a debtor. The court may assess costs against a judgment debtor to be paid upon satisfaction of the judgment. The processing agency shall send a notice by first-class mail to the person or registered owner indicating that a judgment shall be entered for the unpaid penalties, fees, and costs and that, after 21 calendar days from the date of the mailing of the notice, the judgment shall have the same effect as an entry of judgment against a judgment debtor. The person or registered owner shall also be notified at that time that execution may be levied against his or her assets, liens may be placed against his or her property, his or her wages may be garnished, and other steps may be taken to satisfy the judgment. If a judgment is rendered for the processing agency, that agency may contract with a collection agency to collect the amount of that judgment.

(B) Notwithstanding any other law, the processing agency shall pay the established first paper civil filing fee at the time an entry of civil judgment is requested.

(3) If the registration of the vehicle has not been renewed for 60 days beyond the renewal date, and the citation has not been collected by the department pursuant to Section 4760, file proof of unpaid penalties and fees with the court with the same effect as a civil judgment as provided in paragraph (2).

(b) This section does not apply to a registered owner of a vehicle if the citation was issued prior to the registered owner taking possession of the vehicle, and the department has notified the processing agency pursuant to Section 4764.

(c) (1) For purposes of paragraph (1) of subdivision (a), a person is "indigent" if any of the following conditions is met:

(A) The person's net income is at or below 250 percent of the federal poverty level based on family size.

(B) The person receives benefits or services under the California Work Opportunity and Responsibility to Kids (CalWORKs) program pursuant to Chapter 2 (commencing with Section 11200) or the Medi-Cal program pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of, or the CalFresh program pursuant to Chapter 10 (commencing with Section 18900) of Part 6 of, Division 9 of the Welfare and Institutions Code, extended foster care benefits to a nonminor dependent as defined in subdivision (v) of Section 11400 of the Welfare and Institutions Code, the Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled (SSI/SSP), or the unemployment insurance program.

(C) The person, as individually determined by the processing agency, is unable to pay the parking penalties or administrative fees without using moneys that normally would pay for basic necessities of life for the person and his or her family.

(2) The person may demonstrate that he or she is indigent by providing either of the following information, as applicable:

(A) Proof of income from a pay stub or another form of proof of earnings, a bank statement, rent, or grocery receipts.

(B) Proof of receipt of benefits or services under the programs described in subparagraph (B) of paragraph (1), including, but not limited to, an electronic benefits transfer card or another card.