



Roll Call Training Bulletin

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Vehicles removed from private property pursuant to California Vehicle Code §22658

BACKGROUND

Officers often respond to calls for service to resolve disputes between vehicle owners and tow truck drivers attempting to conduct nonconsensual tows originating from private property locations. This bulletin addresses whether a tow company may require the payment of a “drop fee” from the vehicle owner prior to releasing the vehicle.

STATUTORY AUTHORITY

The following California Vehicle Code (CVC) sections apply to the definitions of vehicle possession and tow car drop fees related to private property tows:

CVC Subsection 22658(g)(1)(A) states:

“Possession of any vehicle under this section shall be deemed to arise when a vehicle is removed from private property and is in transit.”

CVC Subsection 22658(h) states:

“A towing company may impose a charge of not more than one-half of the regular towing charge for the towing of a vehicle at the request of the owner of private property or that owner’s agent, if the owner returns to the vehicle or the owner’s agent returns to the vehicle before it is removed from the private property. The regular towing charge may only be imposed after the vehicle has been removed from the property and is in transit.”

Under these two provisions of the Vehicle Code, “possession” of a motor vehicle by a tow truck driver does not arise until the tow driver **has removed the vehicle from the private property AND is in transit on a public street.**

WHAT SHOULD OFFICERS DO?

22658(g)(1)(B) CVC states that a tow company must “immediately and unconditionally” release a vehicle to the owner if the owner demands it, and the vehicle has not yet been removed from private property. **Therefore, a tow company cannot condition the release of the vehicle upon payment of any type of fee.** Advise the tow driver that their conduct is unlawful, and a misdemeanor violation of 22658(g)(C) CVC. There is nothing however, preventing a tow company from charging a “drop fee” after the vehicle is released. The applicable statutes fail to provide an authorized means of assessing the “drop fee” (i.e., invoice, collections, small claims court, etc.). It will be up to the tow company how it intends to pursue collection of the fee at a later date. **Please note that this situation differs from the more commonly encountered circumstances of a vehicle that is being repossessed.**