
Vehicle Towing and Release

502.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Fresno State Police Department.

Driving in the state of California is a privilege, not a right (§14607.4 CVC). Unlicensed drivers are proven to be responsible for a disproportionate number of collisions nationwide. Unlicensed drivers are involved in more than 20 percent of fatal/injury collisions and a driver with a suspended license is four times more likely to be involved in a fatal/injury collision than a licensed driver.

It shall be the policy of the Fresno State Police Department to actively enforce the traffic laws of this state with the presumption that such enforcement leads to a reduction of traffic collisions. Thus, officers are expected to actively enforce the traffic laws pertaining to the storage and impound of vehicles when an officer has identified the driver as being unlicensed or having a suspended or revoked license.

Officers shall tow all vehicles of which the drivers have been taken into custody. Exceptions to this are as follows:

- (a) The vehicle is parked on private property belonging to the driver of the vehicle or property belonging to the registered owner.
- (b) The vehicle is released to a licensed driver at the request of the driver/registered owner.

These exceptions do not apply to suspended, revoked or unlicensed drivers.

Officers shall not stand by to await the arrival of a party summoned from another location to take custody of the vehicle.

502.1.1 APPLICABLE LAW

There were several changes to the California Vehicle Code as a result of the passage of the California Safe Streets Act of 1994. The sections below became effective January 1, 1995.

California Vehicle Code §22651(p) is amended to add additional sections to the list of driver license violations and provides expanded authority to store a vehicle that is on private property after having been on a highway or public lands.

Additionally, California Vehicle Code §22652(p) permits storage of a vehicle even when a licensed driver is present in the vehicle.

California Vehicle Code §14601.6 has been enacted providing for a thirty (30) day impoundment of a vehicle when driven by a driver who has a suspended or revoked license or has never been issued a license. This section does not apply to a person whose license has expired less than thirty (30) days.

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502.2 STORAGE AND IMPOUNDS

When circumstances permit, for example when towing a vehicle for parking or registration violations, the handling employee should, prior to having the vehicle towed, make a good faith effort to notify the owner of the vehicle that it is subject to removal. This may be accomplished by personal contact, telephone or by leaving a notice attached to the vehicle at least 24 hours prior to removal. If a vehicle presents a hazard, such as being abandoned on the roadway, it may be towed immediately.

The responsibilities of those employees towing, storing or impounding a vehicle are listed below.

502.2.1 VEHICLE STORAGE REPORT

Whenever an officer initiates a traffic stop, the officer shall make every reasonable effort to determine if the driver falls under the provisions of §22651(p), or §14602.6 of the California Vehicle Code. Officers will conduct a driver's license status check whenever a doubt exists as to the status of an individual's driver's license.

California Vehicle Code §22651(p) is the least intrusive storage authority, allowing an officer to remove a vehicle when the driver has been issued a Notice to Appear for a violation of CVC sections §12500, §14601, §14601.1, §14601.2, §14601.3, §14601.4, §14601.5, and §14604. Officers may also remove a vehicle pursuant to section §22651(p) CVC when the driver has a valid license but the license is for a class of vehicle other than the vehicle being operated by the driver (violation of section §12500(b) or (c) CVC). All of the following conditions shall be satisfied prior to storing the vehicle pursuant to section §22651(p) CVC.

- (a) The officer has taken reasonable precautions to ensure the license of the driver involved in the enforcement stop has been expired for more than thirty (30) days.
- (b) The driver has been cited for §12500 CVC.
- (c) The vehicle being stored was observed on a highway or on public property. Section §22651(p) CVC allows for the removal from private property if the vehicle was originally observed on a highway or public property.

Section §14602.6 CVC provides for a thirty (30) day impoundment of a vehicle when driven by a driver who has a suspended or revoked license or by a driver who has never been issued a driver's license. This section does not apply to drivers who have an expired license. All of the following conditions shall be satisfied prior to the impounding a vehicle pursuant to section §14602.6 CVC.

- (a) The officer has taken reasonable precautions to ensure that the driver has never been issued a driver's license or that the driving privilege is actually suspended or revoked with valid service at the time of the enforcement contact.
- (b) If it is determined that the driver's license has been suspended or revoked, the officer shall ensure that a notice of revocation or suspension was served to the driver based upon the service code. In the event the driver has a suspended or revoked license and the DMV service code indicates the person has not been served, the officer shall issue form DL310, under these circumstances the vehicle shall not be removed unless further evidence of service can be substantiated.

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- (c) When an officer encounters a driver who has multiple suspensions on his/her driving record and some of the suspensions do not have valid service orders, the officer shall issue a DL310 form to the driver for all of the suspension orders that need service.
- (d) The driver has been cited for a violation of section §12500, §14601, §14601.1, §14601.2, §14601.3, §14601.4, or §14601.5 CVC.
- (e) Officers shall mark the "Agency Hold" box, and indicated "HOLD FOR 30 DAYS" in the remarks section of the CHP180 form for impoundments under section §14602.6 CVC.

Department members requesting storage of a vehicle shall complete CHP form 180, including a description of property within the vehicle. A copy is to be given to the tow truck operator and the original is to be submitted to the Records Center as soon as practical after the vehicle is stored.

After records/dispatch has entered pertinent data from the completed storage form (CHP form 180) into the Stolen Vehicle System the form will be returned to the Shift Sergeant for approval.

Approved storage forms shall be promptly placed into the report approval box so that they are immediately available for release or for information should inquiries be made.

Within 48 hours, excluding weekends and holidays, of the storage of any such vehicle it shall be the responsibility of the Records Center to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice to all such individuals shall be sent by first-class mail pursuant to Vehicle Code § 22852.

502.2.2 REMOVAL FROM TRAFFIC COLLISION SCENES

When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall have the driver select a towing company, if possible, and shall relay the request for the specified towing company to the dispatcher. When there is no preferred company requested, a company will be selected from the rotational list of towing companies in Dispatch.

If the owner is incapacitated, or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the officer shall request the dispatcher send a non-preference tow from the rotational list of towing companies in Dispatch. The officer will then store the vehicle using a CHP form 180.

502.2.3 STORAGE AT ARREST SCENES

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by storing the arrestee's vehicle subject to the exceptions described below. The vehicle, however, shall be stored whenever it is needed for the furtherance of the investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be stored (e.g., traffic hazard, high crime area).

The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of storing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

- Traffic related warrant arrest.

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- Situations where the vehicle was not used to further the offense for which the driver was arrested.
- Whenever the licensed owner of the vehicle is present, willing, and able to take control of any vehicle not involved in criminal activity.
- Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene. In such cases the owner shall be informed that the Department will not be responsible for theft or damages.

502.2.4 IMPOUNDMENT AT SOBRIETY CHECKPOINTS

Whenever a driver is stopped at a sobriety checkpoint and the only violation is that the operator is driving without a valid driver's license, the officer shall make a reasonable attempt to identify the registered owner of the vehicle (Vehicle Code § 2814.2). The officer shall release the vehicle to the registered owner if the person is a licensed driver, or to another licensed driver authorized by the registered owner, provided the vehicle is claimed prior to the conclusion of the checkpoint operation.

If the vehicle is released at the checkpoint, the officer shall list on his/her copy of the notice to appear the name and driver's license number of the person to whom the vehicle is released.

When a vehicle cannot be released at the checkpoint, it shall be towed (Vehicle Code § 22651(p)). When a vehicle is removed at the checkpoint, it shall be released during the normal business hours of the storage facility to the registered owner or his/her agent upon presentation of a valid driver's license and current vehicle registration.

502.2.5 DRIVING A NON-CITY VEHICLE

Vehicles which have been towed by or at the direction of the Department should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.

502.2.6 SUPERVISOR RESPONSIBILITIES

The shift supervisor/patrol sergeant shall review reports of all stored and impounded vehicles under California Vehicle Code Sections §22561(p) and §14602.6.

The shift supervisors or their designees are responsible for approving all releases of vehicles impounded under sections §22651(p), and §14602.6 CVC, including collection of administrative fees.

The shift supervisors are responsible for ensuring immediate investigation of claims of §10851 CVC or other situations that would render impounds invalid, whether the claims become known through the post-storage hearing or any other means.

502.3 VEHICLE INVENTORY

All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle storage form. This includes the trunk and any compartments or containers, even if closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practical in

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preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while in police custody, to provide for the safety of officers, and to protect the Department against fraudulent claims of lost, stolen, or damaged property.

502.4 SECURITY OF VEHICLES AND PROPERTY

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, officers should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) that are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft, or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

502.5 RELEASE OF VEHICLE

The Department will maintain a listed, 24-hour telephone number to provide information regarding impoundment of vehicles and the right of the registered owner to request a storage hearing. Releases for towed vehicles will be made available during regular, non-emergency business hours (Vehicle Code § 14602.6).

- (a) Vehicles removed pursuant to Vehicle Code § 22850 shall be released after proof of current registration is provided by the owner or the person in control of the vehicle and after all applicable fees are paid (Vehicle Code § 22850.3; Vehicle Code § 22850.5).
- (b) Vehicles removed that require payment of parking fines or proof of valid driver's license shall only be released upon presentation of proof of compliance, proof of payment, completion of affidavit, and payment of applicable fees related to the removal (Vehicle Code § 22651 et seq., Vehicle Code § 22652 et seq., Vehicle Code § 22850.3; Vehicle Code § 22850.5).
- (c) A vehicle removed pursuant to Vehicle Code § 14602.6(a) shall be released to the registered owner or his/her agent with proof of current registration, proof of a valid driver's license, and applicable fees paid prior to the end of the 30-day impoundment period under any of the following circumstances:
 - 1. The vehicle was stolen.
 - 2. If the driver reinstates his/her driver's license or acquires a license and provides proof of proper insurance.
 - 3. Any other circumstance as set forth in Vehicle Code § 14602.6.
 - 4. When there is no remaining community caretaking need to continue impound of the vehicle or the continued impound would not otherwise comply with the Fourth Amendment.
- (d) An autonomous vehicle removed under authority of Vehicle Code § 22651(o)(1)(D) shall be released to the registered owner or person in control of the autonomous vehicle if the requirements of Vehicle Code § 22651(o)(3)(B) are met.

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Personnel whose duties include releasing towed vehicles should consult the Vehicle Code under which the vehicle was towed or impounded for any specific requirements prior to release.

Employees who suspect that a vehicle was impounded in error should promptly advise a supervisor. Supervisors should approve, when appropriate, the release of the vehicle without requiring the registered owner or his/her agent to request a hearing, as described in the Vehicle Impound Hearings Policy.

502.6 ADMINISTRATIVE FEES

The administrative fee will be set by the Fresno State Police Department. This fee shall be no greater than the actual cost incurred by the Fresno State Police Department in an emergency response to a DUI accident, towing, storage, impound, and costs related to the towing, storage, impound, and release of vehicles. These fees are established by time surveys that determine how much time officers spend on the various tasks relating to DUI investigation and towing of vehicles. These fees are subject to periodic review.

The Fresno State Police Department will charge an administrative fee for release of vehicles towed pursuant to any of the following under §22850.5 CVC:

- (a) An arrest (storage section §22651(h) CVC).
- (b) Any violation described in section §22651(p) CVC.
- (c) DUI incidents other than those resulting from a traffic stop.
- (d) As evidence of a crime, §22655.5 CVC.
- (e) Towed pursuant to §14602.6 CVC.

When a vehicle is stored or impounded under any of the above authority sections, a Fresno State Police Department Administrative Fee Notice will be sent to the registered owner along with the notice of storage.

Administrative fees will be collected after an officer has verified that all criteria required for releasing the vehicle has been met. Once an officer has authorized the release, the registered owner of the vehicle will pay the administrative tow release fee. No vehicle will be released without collecting the administrative fee. After fees have been received, the registered owner will then be given a signed copy of the CHP 180 release form.

Cash, cashier's checks and money orders are the *only* form of payment accepted for the release of stored vehicles.

The release of stored vehicles will be conducted Monday through Friday from 8AM to 5PM. If a vehicle has a thirty (30) day impound and the 30th day ends on a weekend, the registered owner may obtain a release on the Friday prior to the 30th day.