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Re: Private Property Vehicle Impounds and California Vehicle Code § 22658(l)(1)

California Vehicle Code § 22658 allows the removal of vehicles from private property with the consent of the property owner or the owner's agent. The law places several restrictions on the process that should be followed by property owners, property management personnel, and the companies providing the towing service. The restrictions deal with times that should be observed and requirements related to authority to remove vehicles, as well as civil recourse against the towing entity and the person or company authorizing the removal.

Currently, the application of one of the provisions of the law, California Vehicle Code § 22685(l)(1) is in question as there are conflicting court decisions (one [1] state and two [2] federal) dealing with the authority of the State to require that tow companies obtain written authorization from the property owner prior to removing a vehicle from private property **and** that the property owner be present at the time of the removal.

The deciding factor in the abovementioned cases was whether the regulations were economic or safety related. The federal court decisions, Toucher v. Santa Ana (219 F.3d 1040) and Tillison v. City of San Diego (CASD CV. # 01-237-B POR), concluded that California Vehicle Code § 22658(l)(1) was not related to public safety and was therefore unenforceable. However, in People Ex. Rel. Renne v. Servantes (86 Cal.App.4th 1081), a California Court of Appeals came to the opposite decision, stating that California Vehicle Code § 22658(l)(1) was related to public safety and therefore was enforceable.

At present, as each court's decision holds the same weight, the City of Costa Mesa considers criminal enforcement of California Vehicle Code § 22658(l)(1) as "on-hold" until a final review is made by a higher court. However, neither the federal cases nor the City's self-imposed stay on the criminal enforcement of California Vehicle Code § 22658(l)(1) preclude a citizen from seeking civil remedies in state court against tow companies that violate that provision or any other provision of

California Vehicle Code § 22658(l)(1). More information is available at www.dmv.ca.gov where you can find a copy of the entire statute for further review. Until a final decision regarding the validity of California Vehicle § 22658(l)(1) is given, police personnel will serve to “keep the peace,” document the incidents, and educate involved parties about available remedies.

Additionally, anyone that believes that they may have been subjected to unfair, or fraudulent, treatment by a tow operator may contact the Orange County District Attorney’s Office of Consumer Protection at (714) 347-8731.

JOHN D. HENSLEY
Chief of Police

TOM A. CURTIS, Lieutenant
Traffic Safety Bureau Commander