

CHAPTER 4

**DEFINITION OF TERMS AND STATUTE RELATING TO ABATEMENT OF
ABANDONED VEHICLE PLANS**

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CHAPTER 4

DEFINITION OF TERMS AND STATUTE RELATING TO ABATEMENT OF ABANDONED VEHICLE PLANS

1. PURPOSE. This chapter includes a definition of terms and statute directly relating to the abatement of abandoned vehicles. California Vehicle Code (VC) and Government Code (GC) sections are located in Chapter 4, Annex A and are intended to provide further reference material for the development of Abandoned Vehicle Abatement (AVA) Plans.
2. DEFINITION OF TERMS. The following definitions are included for use by the Authorities and are consistent with Section 22710 VC requiring the California Highway Patrol (CHP) to establish guidelines for the AVA Program.
 - a. Vehicle. A device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks.
 - b. Highway. A way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.
 - c. Public Nuisance Vehicle. Any vehicle that is abandoned, wrecked, dismantled, or any inoperative part thereof that is on public or private property, not including highways, and that creates a condition tending to reduce the value of private property, promotes blight and deterioration, invites plundering, creates fire hazards, constitutes an attractive nuisance endangering the health and safety of minors, harbors rodents and insects, or jeopardizes, health, safety, and general welfare is a public nuisance.
 - d. Abandoned Vehicle. A vehicle is considered to be “abandoned” if it is left on a highway, public property, or private property in such inoperable or neglected condition that the owner’s intent to relinquish all further rights or interests in it may be reasonably concluded. In reaching a reasonable conclusion, one must consider the amount of time the vehicle has not been moved, its condition, statements from the owner and witnesses, etc.
 - e. Wrecked Vehicle. Any vehicle that is damaged to such an extent that it cannot be operated upon the highway is termed a wrecked vehicle. A vehicle which has been wrecked in a traffic accident, and which has been removed from the roadway to a storage facility, but which has not been claimed by its owner, will not be considered an abandoned vehicle for the purposes of this program.

- f. Dismantled Vehicle. Any vehicle which is partially or wholly disassembled.
- g. Public Property. This term is commonly used as a designation of those things which are considered owned by “the public,” the state or community, and not restricted to dominion of a private person. It may also apply to any property owned by a state, nation, or municipality.
- h. Private Property. Property that belongs absolutely to an individual and that person has the exclusive right of disposition. Property of a specific, fixed, and tangible nature, capable of being possessed and transmitted to another, such as houses, lands, vehicles, etc.

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CALIFORNIA VEHICLE CODE AND GOVERNMENT CODE SECTIONS RELATING TO ABANDONED VEHICLES

VEHICLE CODE

Vehicles of Historic Value

§5004

- (a) Notwithstanding any other provision of this code, any owner of a vehicle described in paragraph (1), (2), or (3) which is operated or moved over the highway primarily for the purpose of historical exhibition or other similar purpose shall, upon application in the manner and at the time prescribed by the department, be issued special identification plates for the vehicle:
 - (1) A motor vehicle with an engine of 16 or more cylinders manufactured prior to 1965.
 - (2) A motor vehicle manufactured in the year 1922 or prior thereto.
 - (3) A vehicle which was manufactured after 1922, is at least 25 years old, and is of historic interest.
- (b) The special identification plates assigned to motor vehicles with an engine of 16 or more cylinders manufactured prior to 1965 and to any motor vehicle manufactured in the year 1922 and prior thereto shall run in a separate numerical series, commencing with "Horseless Carriage No. 1". The special identification plates assigned to vehicles specified in paragraph (3) of subdivision (a) shall run in a separate numerical series, commencing with "Historical Vehicle No. 1". Each series of plates shall have different and distinguishing colors.
- (c) A fee of twenty-five dollars (\$25) shall be charged for the initial issuance of the special identification plates. Such plates shall be permanent and shall not be required to be replaced. If such special identification plates become damaged or unserviceable in any manner, replacement for the plates may be obtained from the department upon proper application and upon payment of such fee as is provided for in Section 9265.
- (d) All funds received by the department in payment for such identification plates or the replacement thereof shall be deposited in the California Environmental License Plate Fund.
- (e) These vehicles shall not be exempt from the equipment provisions of Sections 26709, 27150, and 27600.
- (f) As used in this section, a vehicle is of historic interest if it is collected, restored, maintained, and operated by a collector or hobbyist principally for purposes of exhibition and historic vehicle club activities.

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Service Fee for Abandoned Vehicle Trust Fund §9250.7

- (a)(1) A service authority established under Section 22710 may impose a service fee of one dollar (\$1) on all vehicles, except vehicles described in subdivision (a) of Section 5014.1, registered to an owner with an address in the county that established the service authority. The fee shall be paid to the department at the time of registration, or renewal of registration, or when renewal becomes delinquent, except on vehicles that are expressly exempted under this code from the payment of registration fees.
- (2) In addition to the one-dollar (\$1) service fee, and upon the implementation of the permanent trailer identification plate program, and as part of the Commercial Vehicle Registration Act of 2001, all commercial motor vehicles subject to Section 9400.1 registered to an owner with an address in the county that established a service authority under this section shall pay an additional service fee of two dollars (\$2).
- (b) The department, after deducting its administrative costs, shall transmit, at least quarterly, the net amount collected pursuant to subdivision (a) to the Treasurer for deposit in the Abandoned Vehicle Trust Fund, which is hereby created. All money in the fund is continuously appropriated to the Controller for allocation to a service authority that has an approved abandoned vehicle abatement program pursuant to Section 22710, and for payment of the administrative costs of the Controller. After deduction of its administrative costs, the Controller shall allocate the money in the Abandoned Vehicle Trust Fund to each service authority in proportion to the revenues received from the fee imposed by that authority pursuant to subdivision (a). If any funds received by a service authority pursuant to this section are not expended to abate abandoned vehicles pursuant to an approved abandoned vehicle abatement program that has been in existence for at least two full fiscal years within 90 days of the close of the fiscal year in which the funds were received and the amount of those funds exceeds the amount expended by the service authority for the abatement of abandoned vehicles in the previous fiscal year, the fee imposed pursuant to subdivision (a) shall be suspended for one year, commencing on July 1 following the Controller's determination pursuant to subdivision (e).
- (c) Every service authority that imposes a fee authorized by subdivision (a) shall issue a fiscal year end report to the Controller on or before October 31 of each year summarizing all of the following:

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- (1) The total revenues received by the service authority during the previous fiscal year.
 - (2) The total expenditures by the service authority during the previous fiscal year.
 - (3) The total number of vehicles abated during the previous fiscal year.
 - (4) The average cost per abatement during the previous fiscal year.
 - (5) Any additional, unexpended fee revenues for the service authority during the previous fiscal year.
 - (6) The number of notices to abate issued to vehicles during the previous fiscal year.
 - (7) The number of vehicles disposed of pursuant to an ordinance adopted pursuant to Section 22710 during the previous fiscal year.
 - (8) The total expenditures by the service authority for towing and storage of abandoned vehicles during the previous fiscal year.
- (d) Each service authority that fails to submit the report required pursuant to subdivision (c) by October 31 of each year shall have its fee pursuant to subdivision (a) suspended for one year commencing on July 1 following the Controller's determination pursuant to subdivision (e).
- (e) On or before January 1 annually, the Controller shall review the fiscal yearend reports, submitted by each service authority pursuant to subdivision (c) and due no later than October 31, to determine if fee revenues are being utilized in a manner consistent with the service authority's approved program. If the Controller determines that the use of the fee revenues is not consistent with the service authority's program as approved by the Department of the California Highway Patrol, or that an excess of fee revenues exists, as specified in subdivision (b), the authority to collect the fee shall be suspended for one year pursuant to subdivision (b). If the Controller determines that a service authority has not submitted a fiscal yearend report as required in subdivision (c), the authorization to collect the service fee shall be suspended for one year pursuant to subdivisions (b) and (d). The Controller shall inform the Department of Motor Vehicles on or before January 1 annually, that the authority to collect the fee is suspended. A suspension shall only occur if the service authority has been in existence for at least two full fiscal years and the revenue fee surpluses are in excess of those allowed under this section, the use of the fee revenue is not consistent with the service authority's approved program, or the required fiscal yearend report has not been submitted by October 31.

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- (f) On or before January 1 annually, the Controller shall prepare and submit to the Legislature a revenue and expenditure summary for each service authority established under Section 22710 that includes, but is not limited to, all of the following:
 - (1) The total revenues received by each service authority.
 - (2) The total expenditures by each service authority.
 - (3) The unexpended revenues for each service authority.
 - (4) The total number of vehicle abatements for each service authority.
 - (5) The average cost per abatement as provided by each service authority to the Controller pursuant to subdivision (c).
- (g) On or before January 1, 2010, and biennially thereafter, the service authority shall have a financial audit of the service authority conducted by a qualified independent third party.
- (h) The fee imposed by a service authority shall remain in effect only for a period of 10 years from the date that the actual collection of the fee commenced unless the fee is extended pursuant to this subdivision. The fee may be extended in increments of up to 10 years each if the board of supervisors of the county, by a two-thirds vote, and a majority of the cities having a majority of the incorporated population within the county adopt resolutions providing for the extension of the fee.

Abandonment Prohibited

§22523

- (a) No person shall abandon a vehicle upon any highway.
- (b) No person shall abandon a vehicle upon public or private property without the express or implied consent of the owner or person in lawful possession or control of the property.
- (c) Any person convicted of a violation of this section shall be punished by a fine of not less than one hundred dollars (\$100) and shall provide proof that the costs of removal and disposition of the vehicle have been paid. No part of any fine imposed shall be suspended. The fine may be paid in installments if the court determines that the defendant is unable to pay the entire amount in one payment.
- (d) Proof that the costs of removal and disposition of the vehicle have been paid shall not be required if proof is provided to the court that the vehicle was stolen

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prior to abandonment. That proof may consist of a police report or other evidence acceptable to the court.

- (e) The costs required to be paid for the removal and disposition of any vehicle determined to be abandoned pursuant to Section 22669 shall not exceed those for towing and seven days of storage. This subdivision does not apply if the registered owner or legal owner has completed and returned to the lienholder a "Declaration of Opposition" form within the time specified in Section 22851.8.

Abandonment: Presumption

§22524

- (a) The abandonment of any vehicle in a manner as provided in Section 22523 shall constitute a prima facie presumption that the last registered owner of record is responsible for the abandonment and is thereby liable for the cost of removal and disposition of the vehicle.
- (b) An owner who has made a bona fide sale or transfer of a vehicle and has delivered possession of the vehicle to a purchaser may overcome the presumption prescribed in subdivision (a) by demonstrating that he or she has complied with Section 5900 or providing other proof satisfactory to the court.
- (c) This section shall become operative on July 1, 1989.

Local Abatement Procedure

§22660

Notwithstanding any other provision of law, a city, county, or city and county may adopt an ordinance establishing procedures for the abatement and removal, as public nuisances, of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof from private or public property, and for the recovery, pursuant to Section 25845 or 38773.5 of the Government Code, or assumption by the local authority, of costs of administration and the removal.

Contents of Ordinance

§22661

Any ordinance establishing procedures for the removal of abandoned vehicles shall contain all of the following provisions:

- (a) The requirement that notice be given to the Department of Motor Vehicles within five days after the date of removal, identifying the vehicle or part thereof and any

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- evidence of registration available, including, but not limited to, the registration card, certificates of ownership, or license plates.
- (b) Making the ordinance inapplicable to (1) a vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property or (2) a vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, or a junkyard. This exception shall not, however, authorize the maintenance of a public or private nuisance as defined under provisions of law other than this chapter.
 - (c) The requirement that not less than a 10-day notice of intention to abate and remove the vehicle or part thereof as a public nuisance be issued, unless the property owner and the owner of the vehicle have signed releases authorizing removal and waiving further interest in the vehicle or part thereof. However, the notice of intention is not required for removal of a vehicle or part thereof that is inoperable due to the absence of a motor, transmission, or wheels and incapable of being towed, is valued at less than two hundred dollars (\$200) by a person specified in Section 22855, and is determined by the local agency to be a public nuisance presenting an immediate threat to public health or safety, provided that the property owner has signed a release authorizing removal and waiving further interest in the vehicle or part thereof. Prior to final disposition under Section 22662 of such a low-valued vehicle or part for which evidence of registration was recovered pursuant to subdivision (a), the local agency shall provide notice to the registered and legal owners of intent to dispose of the vehicle or part, and if the vehicle or part is not claimed and removed within 12 days after the notice is mailed, from a location specified in Section 22662, final disposition may proceed. No local agency or contractor thereof shall be liable for damage caused to a vehicle or part thereof by removal pursuant to this section. This subdivision applies only to inoperable vehicles located upon a parcel that is (1) zoned for agricultural use or (2) not improved with a residential structure containing one or more dwelling units.
 - (d) The 10-day notice of intention to abate and remove a vehicle or part thereof, when required by this section, shall contain a statement of the hearing rights of the owner of the property on which the vehicle is located and of the owner of the vehicle. The statement shall include notice to the property owner that he or she may appear in person at a hearing or may submit a sworn written statement denying responsibility for the presence of the vehicle on the land, with his or her

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reasons for such denial, in lieu of appearing. The notice of intention to abate shall be mailed, by registered or certified mail, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owners of record unless the vehicle is in such condition that identification numbers are not available to determine ownership.

- (e) The requirement that a public hearing be held before the governing body of the city, county, or city and county, or any other board, commissioner, or official of the city, county, or city and county as designated by the governing body, upon request for such a hearing by the owner of the vehicle or the owner of the land on which the vehicle is located. This request shall be made to the appropriate public body, agency, or officer within 10 days after the mailing of notice of intention to abate and remove the vehicle or at the time of signing a release pursuant to subdivision (c). If the owner of the land on which the vehicle is located submits a sworn written statement denying responsibility for the presence of the vehicle on his or her land within that time period, this statement shall be construed as a request for hearing that does not require the presence of the owner submitting the request. If the request is not received within that period, the appropriate public body, agency, or officer shall have the authority to remove the vehicle.
- (f) The requirement that after a vehicle has been removed, it shall not be reconstructed or made operable, unless it is a vehicle that qualifies for either horseless carriage license plates or historical vehicle license plates, pursuant to Section 5004, in which case the vehicle may be reconstructed or made operable.
- (g) A provision authorizing the owner of the land on which the vehicle is located to appear in person at the hearing or present a sworn written statement denying responsibility for the presence of the vehicle on the land, with his or her reasons for the denial. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he or she has not subsequently acquiesced to its presence, then the local authority shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect those costs from the owner.

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Disposition of Vehicles or Parts

§22662

Vehicles or parts thereof may be disposed of by removal to a scrapyard, automobile dismantler's yard, or any suitable site operated by a local authority for processing as scrap, or other final disposition consistent with subdivision (e) of Section 22661. A local authority may operate such a disposal site when its governing body determines that commercial channels of disposition are not available or are inadequate, and it may make final disposition of such vehicles or parts, or the local agency may transfer such vehicle or parts to another, provided such disposal shall be only as scrap.

Administration of Ordinance

§22663

Any ordinance adopted pursuant to Section 22660 shall provide for administration of the ordinance by regularly salaried full-time employees of the city, county, or city and county, except that the removal of vehicles or parts thereof from property may be by any other duly authorized person. Any such authorized person may enter upon private property for the purposes specified in the ordinance to examine a vehicle or parts thereof, obtain information as to the identity of a vehicle, and remove or cause the removal of a vehicle or part thereof declared to be a nuisance pursuant to the ordinance.

Waiver: Reporting Requirements and Fees

§22664

Any licensed dismantler or commercial enterprise acquiring vehicles removed pursuant to such ordinance shall be excused from the reporting requirements of Section 11520; and any fees and penalties which would otherwise be due the Department of Motor Vehicles are hereby waived, provided that a copy of the resolution or order authorizing disposition of the vehicle is retained in the dismantler's or commercial enterprise's business records.

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Administration of Local Programs by Highway Patrol

§22665

Notwithstanding Section 22710 or any other provision of law, the department may, at the request of a local authority, other than a service authority, administer on behalf of the authority its abandoned vehicle abatement and removal program established pursuant to Section 22660.

Regulations of Highway Patrol

§22666

Whenever the department is administering a program pursuant to Section 22665, it shall by regulation establish procedures for the abatement and removal of vehicles that are identical to the requirements specified in Section 22661, except that the department shall provide by agreement with the requesting local authority for the conduct of a public hearing pursuant to subdivision (d) of Section 22661 by the local authority and for the reimbursement of the department for its costs of administration and removal which the local authority is authorized to recover from the property owner pursuant to Section 22660. Such regulations shall also provide for the administration of the regulations by regularly salaried, full-time personnel of the department, except that the removal of vehicles or parts thereof from property may be done by any other duly authorized person. Any such person may enter upon private property for the purposes specified in the regulations to examine a vehicle or parts thereof, obtain information as to the identity of a vehicle, and remove or cause the removal of a vehicle or part thereof declared to be a nuisance pursuant to the regulations. The provisions of Sections 22662 and 22664 shall also apply to any vehicle removed by the department.

Abatement and Removal: Priorities

§22667

In establishing procedures for the abatement and removal of abandoned vehicles, the department shall give priority to the removal of abandoned vehicles from corridors of the state highway system, from public lands and parks, and from river and wildlife areas.

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Abandoned Vehicle Trust Fund: Prohibited Disbursements

§22668

No local authority whose abandoned vehicle abatement and removal program is administered pursuant to Section 22665 shall be eligible for any disbursement from the Abandoned Vehicle Trust Fund pursuant to Section 22710.

Removal of Abandoned Vehicles

§22669

- (a) Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or any other employee of the state, county, or city designated by an agency or department of the state or the board of supervisors or city council to perform this function, in the territorial limits in which the officer or employee is authorized to act, who has reasonable grounds to believe that the vehicle has been abandoned, as determined pursuant to Section 22523, may remove the vehicle from a highway or from public or private property.
- (b) Any person performing a franchise or contract awarded pursuant to subdivision (a) of Section 22710, may remove a vehicle from a highway or place to which it has been removed pursuant to subdivision (c) of Section 22654 or from public or private property, after a determination by a peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or other designated employee of the state, county, or city in which the vehicle is located that the vehicle is abandoned, as determined pursuant to Section 22523.
- (c) A state, county, or city employee, other than a peace officer or employee of a sheriff's department or a city police department, designated to remove vehicles pursuant to this section may do so only after he or she has mailed or personally delivered a written report identifying the vehicle and its location to the office of the Department of the California Highway Patrol located nearest to the vehicle.
- (d) Motor vehicles which are parked, resting, or otherwise immobilized on any highway or public right-of-way and which lack an engine, transmission, wheels, tires, doors, windshield, or any other part or equipment necessary to operate safely on the highways of this state, are hereby declared a hazard to public health, safety, and welfare and may be removed immediately upon discovery by a peace officer or other designated employee of the state, county, or city.

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Lien Sale: Valuation

§22670

For lien sale purposes, the public agency causing the removal of the vehicle shall determine if the estimated value of the vehicle that has been ordered removed, towed, or stored is three hundred dollars (\$300) or less, over three hundred dollars (\$300) but four thousand dollars (\$4,000) or less, or over four thousand dollars (\$4,000). If the public agency fails or refuses to put a value on, or to estimate the value of, the vehicle within three days after the date of removal of the vehicle, the garage keeper specified in Section 22851 or the garage keeper's agent shall determine, under penalty of perjury, if the estimated value of the vehicle that has been ordered removed, towed, or stored, is three hundred dollars (\$300) or less, over three hundred dollars (\$300) but four thousand dollars (\$4,000) or less, or over four thousand dollars (\$4,000).

Removal by Franchise or Contract

§22671

A local authority may either issue a franchise or execute a contract for the removal of abandoned vehicles in accordance with the provisions of this chapter.

Service Authority for Abatement of Abandoned Vehicles

§22710

- (a) A service authority for the abatement of abandoned vehicles may be established, and a one dollar (\$1) vehicle registration fee imposed, in a county if the board of supervisors of the county, by a two-thirds vote, and a majority of the cities having a majority of the incorporated population within the county have adopted resolutions providing for the establishment of the authority and imposition of the fee. The membership of the authority shall be determined by concurrence of the board of supervisors and a majority vote of the majority of the cities within the county having a majority of the incorporated population.
- (b) The authority may contract and may undertake any act convenient or necessary to carry out a law relating to the authority. The authority shall be staffed by existing personnel of the city, county, or county transportation commission.
- (c) (1) Notwithstanding any other provision of law, a service authority may adopt an ordinance establishing procedures for the abatement, removal, and disposal, as a public nuisance, of an abandoned, wrecked, dismantled, or inoperative vehicle or part of the vehicle from private or public property; and for the

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recovery, pursuant to Section 25845 or 38773.5 of the Government Code, or assumption by the service authority, of costs associated with the enforcement of the ordinance. Cost recovery shall only be undertaken by an entity that may be a county or city or the department, pursuant to contract with the service authority as provided in this section.

- (2) (A) The money received by an authority pursuant to Section 9250.7 and this section shall be used only for the abatement, removal, or the disposal as a public nuisance of any abandoned, wrecked, dismantled, or inoperative vehicle or part of the vehicle from private or public property. The money received shall not be used to offset the costs of vehicles towed under authorities other than an ordinance adopted pursuant to paragraph (1) or when costs are recovered under Section 22850.5.
 - (B) The money received by a service authority pursuant to Section 9250.7 and this section that are unexpended in a fiscal year may be carried forward by the service authority for the abandoned vehicle abatement program in the following fiscal year as agreed upon by the service authority and its member agencies.
- (d) (1) An abandoned vehicle abatement program and plan of a service authority shall be implemented only with the approval of the county and a majority of the cities having a majority of the incorporated population.
- (2) (A) The department shall provide guidelines for an abandoned vehicle abatement program. An authority's abandoned vehicle abatement plan and program shall be consistent with those guidelines, and shall provide for, but not be limited to, an estimate of the number of abandoned vehicles, a disposal and enforcement strategy including contractual agreements, and appropriate fiscal controls.
 - (B) The department's guidelines provided pursuant to this paragraph shall include, but not be limited to, requiring each service authority receiving funds from the Abandoned Vehicle Trust Fund to report to the Controller on an annual basis pursuant to subdivision (c) of Section 9250.7, in a manner prescribed by the department, and pursuant to an approved abandoned vehicle abatement program.
 - (C) A service authority may carry out an abandoned vehicle abatement from a public property after providing a notice as specified by the local ordinance adopted pursuant to Section 22660 of the jurisdiction in which the abandoned vehicle is located and that notice has expired.

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- (3) After a plan has been approved pursuant to paragraph (1), the service authority shall, not later than August 1 of the year in which the plan was approved, submit it to the department for review, and the department shall, not later than October 1 of that same year, either approve the plan as submitted or make recommendations for revision. After the plan has received the department's approval as being consistent with the department's guidelines, the service authority shall submit it to the Controller.
- (4) Except as provided in subdivision (e), the Controller shall not make an allocation for a fiscal year, commencing on July 1 following the Controller's determination to suspend a service authority when a service authority has failed to comply with the provisions set forth in Section 9250.7.
- (5) A governmental agency shall not receive funds from a service authority for the abatement of abandoned vehicles pursuant to an approved abandoned vehicle abatement program unless the governmental agency has submitted an annual report to the service authority stating the manner in which the funds were expended, and the number of vehicles abated. The governmental agency shall receive that percentage of the total funds collected by the service authority that is equal to its share of the formula calculated pursuant to paragraph (6).
- (6) Each service authority shall calculate a formula for apportioning funds to each governmental agency that receives funds from the service authority and submit that formula to the Controller with the annual report required pursuant to paragraph (2). The formula shall apportion 50 percent of the funds received by the service authority to a governmental agency based on the percentage of vehicles abated by that governmental agency of the total number of abandoned vehicles abated by all member agencies, and 50 percent based on population and geographic area, as determined by the service authority. When the formula is first submitted to the Controller, and each time the formula is revised thereafter, the service authority shall include a detailed explanation of how the service authority determined the apportionment between per capita abatements and service area.
- (7) Notwithstanding any other provision of this subdivision, the Controller may allocate to the service authority in the County of Humboldt the net amount of the abandoned vehicle abatement funds received from the fee imposed by that authority, as described in subdivision (b) of Section 9250.7, for calendar years 2000 and 2001.

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- (e) A plan that has been submitted to the Controller pursuant to subdivision (d) may be revised pursuant to the procedure prescribed in that subdivision, including compliance with any dates described therein for submission to the department and the Controller, respectively, in the year in which the revisions are proposed by the service authority. Compliance with that procedure shall only be required if the revisions are substantial.
- (f) For purposes of this section, "abandoned vehicle abatement" means the removal of a vehicle from public or private property by towing or any other means after the vehicle has been marked as abandoned by an official of a governmental agency that is a member of the service authority.
- (g) A service authority shall cease to exist on the date that all revenues received by the authority pursuant to this section and Section 9250.7 have been expended.
- (h) In the event of a conflict with other provisions of law, this section shall govern the disbursement of money collected pursuant to this section and from the Abandoned Vehicle Trust Fund for the implementation of the abandoned vehicle abatement program.

Abandoned Vehicles: Transport to Penal Institutions

§22711

Notwithstanding any other provision of law, the California Highway Patrol, any city, county, or city and county which has an abandoned vehicle abatement program, and any service authority established under Section 22710, upon satisfying all applicable reporting requirements provided in this chapter, may, with the consent of the Director of Corrections, transport any abandoned vehicle to, and dispose of any abandoned vehicle at, any institution under the jurisdiction of the director which has a program established pursuant to Section 2813.5 of the Penal Code.

Vehicle Removal: Release to Owner

§22850.3

- (a) A vehicle placed in storage pursuant to Section 22850 shall be released to the owner or person in control of the vehicle only if the owner or person furnishes, to the law enforcement agency or employee who placed the vehicle in storage, satisfactory proof of current vehicle registration. The agency which caused the vehicle to be stored may, in its discretion, issue a notice to appear for the registration violation, if the two days immediately following the day of impoundment are weekend days or holidays.

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- (b) At every storage facility there shall be posted in a conspicuous place a notice to the effect that a vehicle placed in storage pursuant to Section 22850 may be released only on proof of current registration or, at the discretion of the impounding agency, upon the issuance of a notice to appear for the registration violation by the local agency which caused the vehicle to be stored, specifying the name and telephone number of that local agency.

Lien on Stored Vehicle

§22851

- (a)(1) Whenever a vehicle has been removed to a garage under this chapter and the keeper of the garage has received the notice or notices as provided herein, the keeper shall have a lien dependent upon possession for his or her compensation for towage and for caring for and keeping safe the vehicle for a period not exceeding 60 days or, if an application for an authorization to conduct a lien sale has been filed pursuant to Section 3068.1 of the Civil Code within 30 days after the removal of the vehicle to the garage, 120 days and, if the vehicle is not recovered by the owner within that period or the owner is unknown, the keeper of the garage may satisfy his or her lien in the manner prescribed in this article. The lien shall not be assigned. Possession of the vehicle is deemed to arise when a vehicle is removed and is in transit, or when vehicle recovery operations or load salvage operations that have been requested by a law enforcement agency have begun at the scene.
- (2) Whenever a vehicle owner returns to a vehicle that is in possession of a towing company prior to the removal of the vehicle, the owner may regain possession of the vehicle from the towing company if the owner pays the towing company the towing charges.
- (b) No lien shall attach to any personal property in or on the vehicle. The personal property in or on the vehicle shall be given to the current registered owner or the owner's authorized agent upon demand. The lienholder shall not be responsible for property after any vehicle has been disposed of pursuant to this chapter.

Disposition of Abandoned Low-Valued Vehicles

§22851.3

Whenever a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or any other employee of a public agency authorized

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pursuant to Section 22669 and the public agency or, at the request of the public agency, the lienholder determines the estimated value of the vehicle is five hundred dollars (\$500) or less, the public agency which removed, or caused the removal of, the vehicle shall cause the disposal of the vehicle under this section, subject to all of the following requirements:

- (a) Not less than 72 hours before the vehicle is removed, the peace officer or the authorized public employee has securely attached to the vehicle a distinctive notice which states that the vehicle will be removed by the public agency. This subdivision does not apply to abandoned vehicles removed pursuant to subdivision (d) of Section 22669 which are determined by the public agency to have an estimated value of three hundred dollars (\$300) or less.
- (b) Immediately after removal of the vehicle, the public agency which removed, or caused the removal of, the vehicle shall notify the Stolen Vehicle System of the Department of Justice in Sacramento of the removal.
- (c) The public agency which removed, or caused the removal of, the vehicle or, at the request of the public agency, the lienholder shall obtain a copy of the names and addresses of all persons having an interest in the vehicle, if any, from the Department of Motor Vehicles either directly or by use of the California Law Enforcement Telecommunications System. This subdivision does not require the public agency or lienholder to obtain a copy of the actual record on file at the Department of Motor Vehicles.
- (d) Within 48 hours of the removal, excluding weekends and holidays, the public agency which removed, or caused the removal of, the vehicle or, at the request of the public agency, the lienholder shall send a notice to the registered and legal owners at their addresses of record with the Department of Motor Vehicles, and to any other person known to have an interest in the vehicle. A notice sent by the public agency shall be sent by certified or first-class mail, and a notice sent by the lienholder shall be sent by certified mail. The notice shall include all of the following information:
 - (1) The name, address, and telephone number of the public agency providing the notice.
 - (2) The location of the place of storage and description of the vehicle which shall include, if available, the vehicle make, license plate number, vehicle identification number, and mileage.
 - (3) The authority and purpose for the removal of the vehicle.

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- (4) A statement that the vehicle will be disposed of 15 days from the date of the notice.
- (5) A statement that the owners and interested persons, or their agents, have the opportunity for a post-storage hearing before the public agency which removed, or caused the removal of, the vehicle to determine the validity of the storage if a request for a hearing is made in person, in writing, or by telephone within 10 days from the date of notice; that, if the owner or interested person, or his or her agent, disagrees with the decision of the public agency, the decision may be reviewed pursuant to Section 11523 of the Government Code; and that during the time of the initial hearing, or during the time the decision is being reviewed pursuant to Section 11523 of the Government Code, the vehicle in question shall not be disposed of.
- (e) (1) Any requested hearings shall be conducted within 48 hours of the request, excluding weekends and holidays. The public agency which removed the vehicle may authorize its own officers to conduct the hearing if the hearing officer is not the same person who directed the storage of the vehicle.
- (2) Failure of either the registered or legal owner or interested person, or his or her agent, to request or to attend a scheduled hearing shall satisfy the post-storage validity hearing requirement of this section.
- (f) The public agency employing the person, or utilizing the services of a contractor or franchiser pursuant to subdivision (b) of Section 22669, which removed, or caused the removal of, the vehicle and which directed any towing or storage, shall be responsible for the costs incurred for towing and storage if it is determined in the hearing that reasonable grounds to believe that the vehicle was abandoned are not established.
- (g) No authorization for disposal may be issued by the public agency which removed, or caused the removal of, the vehicle to a lienholder who is storing the vehicle prior to the conclusion of a requested post-storage hearing or any judicial review of that hearing.
- (h) If, after 15 days from the notification date, the vehicle remains unclaimed and the towing and storage fees have not been paid, and if no request for a post-storage hearing was requested or a post-storage hearing was not attended, the public agency which removed, or caused the removal of, the vehicle shall provide to the lienholder who is storing the vehicle, on a form approved by the Department of Motor Vehicles, authorization to dispose of the vehicle. The

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lienholder may request the public agency to provide the authorization to dispose of the vehicle.

- (i) If the vehicle is claimed by the owner or his or her agent within 15 days of the notice date, the lienholder who is storing the vehicle may collect reasonable fees for services rendered, but may not collect lien sale fees as provided in Section 22851.12.
- (j) Disposal of the vehicle by the lienholder who is storing the vehicle may only be to a licensed dismantler or scrap iron processor. A copy of the public agency's authorization for disposal shall be forwarded to the licensed dismantler within five days of disposal to a licensed dismantler. A copy of the public agency's authorization for disposal shall be retained by the lienholder who stored the vehicle for a period of 90 days if the vehicle is disposed of to a scrap iron processor.
- (k) If the names and addresses of the registered and legal owners of the vehicle are not available from the records of the Department of Motor Vehicles, either directly or by use of the California Law Enforcement Telecommunications System, the public agency may issue to the lienholder who stored the vehicle an authorization for disposal at any time after the removal. The lienholder may request the public agency to issue an authorization for disposal after the lienholder ascertains that the names and addresses of the registered and legal owners of the vehicle are not available from the records of the Department of Motor Vehicles either directly or by use of the California Law Enforcement Telecommunications System.
- (l) A vehicle disposed of pursuant to this section shall not be reconstructed or made operable, unless it is a vehicle which qualifies for either horseless carriage license plates or historical vehicle license plates, pursuant to Section 5004, in which case the vehicle may be reconstructed or made operable.

Appraisers §22855

The following persons shall have the authority to make appraisals of the value of vehicles for purposes of this chapter, subject to the conditions stated in this chapter:

- (a) Any member of the California Highway Patrol designated by the commissioner.
- (b) Any regularly employed and salaried deputy sheriff or other employee designated by the sheriff of any county.

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- (c) Any regularly employed and salaried police officer or other employee designated by the chief of police of any city.
- (d) Any officer or employee of the Department of Motor Vehicles designated by the director of that department.
- (e) Any member of the California State Police designated by the chief thereof.
- (f) Any regularly employed and salaried police officer or other employee of the University of California Police Department designated by the chief thereof.
- (g) Any regularly salaried employee of a city, county, or city and county designated by a board of supervisors or a city council pursuant to subdivision (a) of Section 22669.
- (h) Any regularly employed and salaried police officer or other employee of the police department of a California State University designated by the chief thereof.
- (i) Any regularly employed and salaried security officer or other employee of a transit district security force designated by the chief thereof.
- (j) Any regularly employed and salaried peace officer or other employee of the Department of Parks and Recreation designated by the director of that department.

CALIFORNIA GOVERNMENT CODES.

Abatement of nuisance; ordinance to establish procedure; contents; failure to pay costs; special assessment against parcel; collection; notice of abatement lien; recordation; effect
§25845

- (a) The board of supervisors, by ordinance, may establish a procedure for abatement of a nuisance. The ordinance shall, at a minimum, provide that the owner of the parcel, and anyone known to the board of supervisors to be in possession of the parcel, be given notice of the abatement proceeding and an opportunity to appear before the board of supervisors and be heard prior to the abatement of the nuisance by the county. However, nothing in this Section prohibits the summary abatement of a nuisance upon order of the board of supervisors, or upon order of any other county officer authorized by law to summarily abate nuisances, if the board or officer determines that the nuisance constitutes an immediate threat to public health or safety.

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- (b) If the owner fails to pay the costs of the abatement upon demand by the county, the board of supervisors, may order the cost of the abatement to be specially assessed against the parcel. The assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as are provided for ordinary county taxes. All laws applicable to the levy, collection, and enforcement of county taxes are applicable to the special assessment.
- (c) If the board of supervisors specially assesses the cost of the abatement against the parcel, the board may also cause a notice of abatement lien to be recorded. The notice shall, at a minimum, identify the record owner or possessor of property, set forth the last known address of the record owner or possessor, set forth the date upon which abatement of the nuisance was ordered by the board of supervisors and the date the abatement was complete, and include a description of the real property subject to lien and the amount of the abatement cost.
- (d) However, if the board of supervisors does not cause the recordation of a notice of abatement lien pursuant to subdivision (c), and any real property to which the costs of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or a lien on a bona fide encumbrance for value has been created and attaches to that property, prior to the date on which the first installment of county taxes would become delinquent, then the cost of abatement shall not result in a lien against real property but shall be transferred to the unsecured roll for collection.
- (e) Recordation of a notice of abatement lien pursuant to subdivision (c) has the same effect as recordation of an abstract of a money judgment recorded pursuant to Article 2 (commencing with Section 697.310) of Chapter 2 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure. The lien created has the same priority as a judgment lien on real property and continues in effect until released. Upon order of the board of supervisors, or any county officer authorized by the board of supervisors to act on its behalf, an abatement lien created under this Section may be released or subordinated in the same manner as a judgment lien on real property may be released or subordinated.
- (f) The board of supervisors may, by ordinance, delegate to a hearing officer appointed pursuant to Section 27720 the powers and duties specified by this Section.

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- (g) The board of supervisors may, by ordinance, delegate to a hearing officer appointed pursuant to Section 27720 the powers and duties specified by this section.

Second or subsequent civil or criminal judgment; abatement of nuisance; treble damages
§25845.5

The board of supervisors, by ordinance, may provide that upon entry of a second or subsequent civil or criminal judgment within a two-year period finding that an owner of property is responsible for a condition that may be abated in accordance with an ordinance enacted pursuant to Section 25845, except for conditions abated pursuant to Section 17980 of the Health and Safety Code, the court may order the owner to pay treble the costs of the abatement.

Nuisance Abatement Lien; Ordinance; Procedures; Fees
§38773.1

- (a) The legislative body may by ordinance establish a procedure to collect abatement related administrative costs by a nuisance abatement lien. This ordinance shall require notice prior to the recordation of the lien to the owner of record of the parcel of land on which the nuisance is maintained, based on the last equalized assessment roll or the supplemental roll, whichever is more current.
- (b) The notice shall be served in the same manner as summons in a civil action in accordance with Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. If the owner of record, after diligent search cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of 10 days and publication thereof in a newspaper of general circulation published in the county in which the property is located pursuant to Section 6062.
- (c) A nuisance abatement lien shall be recorded in the county recorder's office in the county in which the parcel of land is located and from the date of recording shall have the force, effect, and priority of a judgment lien.
 - (1) A nuisance abatement lien authorized by this Section shall specify the amount of the lien, the name of the agency on whose behalf the lien is imposed, the date of the abatement order, the street address, legal description and assessor's parcel number on which the lien is imposed, and the name and address of the recorded owner of the parcel.

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- (2) In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of discharge containing the information specified in paragraph (1) shall be recorded by the governmental agency. A nuisance abatement lien and the release of the lien shall be indexed in the grantor-grantee index.
- (3) A nuisance abatement lien may be foreclosed by an action brought by the city for money judgment.
- (4) Notwithstanding Section 6103, Section 27383, or any other provision of law, the county recorder may impose a fee on the city to reimburse the costs of processing and recording the lien and providing notice to the property owner. A city may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien.

Establishment of procedure for abatement of nuisance; cost of abatement as special assessment against parcel; conditions making cost not a lien
§38773.5

- (a) As an alternative to the procedure authorized by Section 38773.1, the legislative body may by ordinance establish a procedure for the abatement of a nuisance and make the cost of abatement of a nuisance upon a parcel of land a special assessment against that parcel. Any procedure established pursuant to this Section shall include notice, by certified mail, to the property owner, if the property owner's identity can be determined from the county assessor's or county recorder's records. The notice shall be given at the time of imposing the assessment and shall specify that the property may be sold after three years by the tax collector for unpaid delinquent assessments. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attached thereon, prior to the date on which the first installment of taxes would become delinquent, then the cost of abatement shall not result in a lien

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- against the real property but instead shall be transferred to the unsecured roll for collection.
- (b) A local agency that has imposed an assessment pursuant to this Section may, subject to the requirements applicable to the sale of property pursuant to Section 3691 of the Revenue and Taxation Code, conduct a sale of vacant residential developed property for which the payment of that assessment is delinquent.
 - (c) Notices or instruments relating to the abatement proceeding or special assessment shall be entitled to recordation.

Second or subsequent civil or criminal judgment; abatement of nuisance, treble damages
38773.7

The legislative body, by ordinance, may provide that upon entry of a second or subsequent civil or criminal judgment within a two-year period finding an owner of property is responsible for a condition that may be abated in accordance with an ordinance enacted pursuant to Section 38773.5, except for conditions abated pursuant to Section 17980 of the Health and Safety Code, the court may order the owner to pay treble the costs of the abatement.