



CONSUMER NEWS

SAN DIEGO CITY ATTORNEY'S OFFICE

TOWING FROM PRIVATE PROPERTY

April 2010

This newsletter addresses the laws regulating the towing of a vehicle without the consent of the vehicle owner from private property that is open to the public. The California Legislature weighed the rights of property owners to limit parking on their property to customers of the businesses there and the rights of motorists not to be stranded and passed these laws.

A property owner can authorize the towing of a vehicle from his/her property as long as he/she follows the procedures set forth in the Vehicle Code. Tow companies that remove vehicles from private property open to the public must also comply with specific laws. Violations of these laws are crimes which the City Attorney's Office prosecutes. In addition, vehicle owners can seek damages in civil court against property owners and towing companies that fail to follow the law.

OPEN TO THE PUBLIC:

The laws discussed in this newsletter apply to private property that is held open to the public for parking of vehicles at no fee. This

applies to strip malls and parking lots adjacent to businesses.

The laws discussed in this newsletter do not apply to situations where police or other law enforcement officers order the towing of a vehicle.

ONE HOUR RULE:

A property owner or his/her agent is prohibited from towing or causing to be towed a vehicle within one hour of it being parked. There are exceptions to this rule for vehicles parked:

- within 15 feet of a fire hydrant
- in a fire lane
- in a handicapped parking spot
- in a manner that interferes with the entrance or exit to the property
- in a space designated for tenant parking at a residential property, and
- in spaces at a hotel or motel where spaces are

clearly marked for a specific room.

It is a misdemeanor for a tow company to tow a vehicle unless it has made a good faith inquiry to determine that the property owner or agent who authorizes the towing of the vehicle has waited an hour.

The towing company that removes a vehicle from private property must provide the owner of a towed vehicle a copy of a written authorization from the property owner or agent which indicates, among other information, the time the vehicle was first observed parked and the time authorization to tow the vehicle was given. Thus, the vehicle owner has the ability to verify whether the property owner waited an hour.

If a notice of parking violation has been issued to the parked car, the property owner must wait 96 hours before towing the vehicle. Property owners and

their agents sometimes issues their own notices of parking violation, in which case they must wait for 96 hours, rather than for one hour before authorizing the removal of the vehicle.

AUTHORIZATION:

The property owner or his/her agent must authorize the towing of a vehicle from the private property before the tow company tows it. The person authorizing the tow must be present on the property at the time of the removal and is required to verify the reason for the removal. This person must sign a written authorization for the tow including indicating the reason for the removal of the vehicle, the person's name, address, job title, and telephone number.

There are a few exceptions to the requirement of individual authorization by the property owner or agent.

- If the property is a residential property of 15 or fewer units with no onsite manager, a tenant may authorize the removal of a vehicle parked in the tenant's assigned space and the property owner doesn't have to be present.
- A property owner can give general authorization to a tow company to tow a vehicle that is unlawfully parked within 15 feet of a fire hydrant, in a fire lane, or interferes with the entrance or exit to the

property. The authorization must be in writing. The tow company must take a photo of the vehicle showing the violation before removing it and must present that photo and provide a free copy of the photo to the vehicle owner when he/she claims the vehicle.

In any other situation, the tow company cannot employ the person who authorizes the towing of the vehicle.

STOPPING THE TOW:

If the vehicle owner returns to the parking lot before the tow truck has left the parking lot, the tow truck driver must immediately and unconditionally release the vehicle. The right to take the vehicle to a storage yard does not take effect until the tow truck driver has left the parking lot and is in transit. The tow truck driver cannot demand payment to release the vehicle. Failure to release a vehicle under these circumstances is a misdemeanor, punishable by custody and fines.

The tow company can sue the vehicle owner for up to one half the regular tow charges, but the tow truck driver cannot hold the vehicle to secure payment.

NOTIFYING LAW ENFORCEMENT:

The property owner or agent who authorizes the removal of a vehicle must notify the local traffic law

enforcement agency within one hour after authorizing the tow. The tow company must also notify law enforcement within one hour after removing the vehicle or within 15 minutes after arriving at the storage facility, whichever time is less.

STORAGE YARD RULES:

A tow company must tow the vehicle to a storage facility within 10 miles of the property where it was parked.

The storage facility is required to remain open Monday through Friday from 8 a.m. to 5 p.m. except on state holidays, and to release vehicles after normal business hours. It must have a public pay phone accessible to the public. It must accept credit cards.

MAXIMUM CHARGES ALLOWED:

A storage yard or towing company is prohibited from charging more than the rates that are specified by law enforcement in that area.

If a vehicle is released within 24 hours from the time it was brought into the storage facility, the storage facility can only charge for one day. If the vehicle owner requests the release of his/her vehicle and offers the storage yard full payment within the first 24 hours, the storage yard cannot charge for more than one day if it fails to release the vehicle. If the vehicle owner does not seek release of the vehicle during the initial 24 hours, the storage yard can charge per day of storage.

A tow company or storage yard has no authority to collect money on behalf of the property owner or the owner's agent as a condition of releasing the vehicle. It is illegal for a tow company or storage yard to require payment of a "fine"

