

Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Paul Joseph
Acting Chief of Police

**SUBJECT: DUTY MANUAL REVISION-
SECTION L 5412 VEHICLES
LACKING REGISTRATION FOR
MORE THAN SIX MONTHS**

DATE: July 22, 2024

APPROVED

Memo #2024-020

BACKGROUND

It is not the intention of the San José Police Department to deprive otherwise law-abiding motorists of their vehicles solely for California Vehicle Code (CVC) violations. However, circumstances occasionally arise which necessitate the impounding of a vehicle in the interest of public safety.

Under previous Department policy, officers were only permitted to impound a vehicle for having a registration expiration date in excess of six months (22651(o)(1)(A) CVC) if the vehicle was unattended. Since the vehicle code specifies that only peace officers may remove occupied vehicles under this authority, the previous policy left no mechanism for the impounding of a vehicle in the rare instances that such removal is necessary.

The change in policy only applies to parked vehicles. Officers will not impound a moving vehicle based on the above authority pursuant to a traffic stop. Prior to impounding a parked vehicle under this authority, officers should make a reasonable effort to allow the owner of the vehicle to move it off the public street to a location where the owner has consent to park it in order to avoid impound.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike-through~~ form.

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~~Such vehicles~~ *A vehicle with a registration expiration date in excess of six months,* when found *parked* upon a highway, public land, or an offstreet parking facility, may be towed under authority of CVC 22651(o)(1).

Definition: "eOffstreet parking facility" means *refers to a publicly-owned any offstreet* facility open for use by the public to park vehicles ~~offstreet or a privately-owned facility~~

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open for use by the common public as retail customers and does not charge a fee for the privilege to park offstreet and includes any publicly owned facilities for offstreet parking and privately owned facilities for offstreet parking where no fee is charged for the privilege to park and which are held open for the common use of retail customers.

Prior to impounding a parked vehicle under this authority, officers should make a reasonable effort to allow the owner to move it off the highway, public land, or offstreet parking facility to any location where the owner has consent to park it to avoid impound. If the vehicle is unoccupied, reasonable effort should be made to contact the owner to allow them to move it.

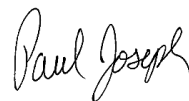
Officers will determine from CLETS that the last date of valid registration exceeds one-half year (six months and one day) per 22652(o)(1) CVC and that no temporary operating permit is displayed upon or within the vehicle. The vehicle storage report should state that a visual search was made and disclosed no interim registration. (A TIP entry on the CLETS entry indicates the vehicle is currently registered but DMV has not updated its automated files. These vehicles should not be towed due to expired registration.)

Department members assigned below will have specific duties when investigating, reporting and releasing a vehicle held under CVC 22651(o)(1).

- FIELD OFFICER Stowing any ~~unattended~~ motor vehicle whose registration has been expired for more than six months and one day will note Section 22651 (o)(1) as the authority for the tow on the Form CHP 180 and may impound the vehicle.
- VEHICLE RECORDS UNIT will maintain the hold on the vehicle until such time as its proper owner has produced a receipt from DMV clearing registration and outstanding citations. The owner is required to show identification, either a California Driver's License or DMV Identification Card or other legitimate identification. However, if the vehicle owner does not have a valid driver's license, the vehicle will be released to a person with a valid driver's license designated by the vehicle owner by notarized letter. A vehicle release fee is collected by the Vehicle Records Unit.
- OPERATIONS SUPPORT SERVICES DIVISION Tow Hearing Officer may be summoned to resolve any complications that result from the withholding of the vehicle release.

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual section.



Paul Joseph
Acting Chief of Police

PJ:PH