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AB-2544 Parking penalties. (2017-2018)

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Assembly Bill No. 2544

CHAPTER 494

An act to amend Section 40220 of, and to add and repeal Section 40220.5 of, the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 2018. Filed with Secretary of State September 18, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2544, Lackey. Parking penalties.

Existing law authorizes a processing agency that processes unpaid parking penalties to proceed under specified options to collect those penalties. Under one option, a processing agency is authorized to file an itemization of unpaid penalties with the Department of Motor Vehicles for the department to collect the penalties along with the registration of the vehicle. Existing law requires this option, starting on July 1, 2018, to include a process to provide a payment plan for indigent persons.

This bill would specify that the option to collect unpaid penalties that were issued before July 1, 2018, through the department requires a process to provide a payment plan for indigent persons, as specified. The bill would make technical changes to the provisions for all the specified options to collect the unpaid parking penalty.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 40220 of the Vehicle Code is amended to read:

40220. (a) Except as otherwise provided in Sections 40220.5, 40221, and 40222, the processing agency may proceed under one of the following options in order to collect an unpaid parking penalty and related service fees:

(1) (A) File an itemization of unpaid parking penalties and related service fees with the department for collection with the registration of the vehicle pursuant to Section 4760. For unpaid parking penalties issued on and after July 1, 2018, and related service fees, the processing agency shall not file an itemization with the department unless all of the following conditions have been satisfied:

(i) The processing agency provides a payment plan option for indigent persons that, at a minimum, does all of the following:

(I) Allows payment of unpaid parking fines and related service fees to be paid off in monthly installments of no more than twenty-five dollars (\$25) for total amounts due that are three hundred dollars (\$300) or less. However, unpaid parking fines and fees shall be paid off within 18 months. There shall be no prepayment penalty for paying off the balance prior to the payment period expiring.

(II) Waives all late fees and penalty assessments, exclusive of any state surcharges described in Sections 70372, 76000, and 76000.3 of the Government Code, if an indigent person enrolls in the payment plan. Waived late fees and penalty assessments may be reinstated if the person falls out of compliance with the payment plan.

(III) Limits the processing fee to participate in a payment plan to five dollars (\$5) or less for indigent persons. The processing fee for an indigent person may be added to the payment plan amount, at the discretion of the indigent person. If a processing agency offers a payment plan option to persons who are not indigent, limits the processing fee to participate in the payment plan to twenty-five dollars (\$25) or less.

(IV) Allows a person a period of 60 calendar days from the issuance of a notice of parking violation or 10 days after the administrative hearing determination, whichever is later, to file a request to participate in a payment plan.

(ii) The processing agency includes the information described in subclauses (I) and (II) in the notice of parking violation, and includes both in the notice of parking violation and on its public Internet Web site, a Web page link and telephone number to more information on the payment program. The linked Internet Web page shall include all of the following information:

(I) The availability of an installment payment plan and the timeframe in which to apply.

(II) The person's right to request an indigency determination and the timeframe in which he or she must apply.

(III) Clear language about how the person can request an indigency determination and what that determination will entail.

(IV) Documents needed by the processing agency to make an indigency determination.

(iii) The person fails to enroll in the payment plan within the time specified in the notice or is not eligible for the payment plan because he or she is not indigent.

(B) The processing agency shall allow a person who falls out of compliance with the payment plan a one-time extension of 45 calendar days from the date the payment plan becomes delinquent to resume payments before the processing agency files an itemization of unpaid parking penalties and related service fees with the department pursuant to subparagraph (A).

(C) The processing agency shall rescind the filing of an itemization of unpaid parking penalties and related service fees with the department for an indigent person, for one time only, if the registered owner or lessee enrolls in a payment plan and pays a late fee of no more than five dollars (\$5).

(D) (i) By August 1, 2018, each California State University and community college district governing board shall adopt a parking citation payment plan for persons with multiple unpaid parking citations. A parking citation payment policy adopted under this subparagraph shall include, but not be limited to, all of the following requirements:

(I) Late fees shall be placed in abeyance while the payment plan is in place and the person adheres to its terms, and shall be waived once the payment plan is completed.

(II) Once the payment plan is in place and the person adheres to its terms, an itemization of unpaid parking penalties and service fees as described in subparagraph (A) shall not be filed with the department.

(III) Each California State University and community college district campus shall post the parking citation payment policy on its Internet Web site for students' awareness and access.

(ii) A California State University or community college district governing board that fails to implement a parking citation payment plan pursuant to clause (i) by August 1, 2018, shall implement the payment plan as provided in subparagraphs (A) to (C), inclusive, and subdivision (c).

(2) (A) If more than four hundred dollars (\$400) in unpaid penalties and fees have been accrued by any person or registered owner, proof thereof may be filed with the court and shall have the same effect as a civil judgment. Execution may be levied and other measures may be taken for the collection of the judgment as are authorized for the collection of an unpaid civil judgment entered against a defendant in an action on a debtor. The court may assess costs against a judgment debtor to be paid upon satisfaction of the judgment. The processing agency shall send a notice by first-class mail to the person or registered owner indicating that a judgment shall be entered for the unpaid penalties, fees, and costs and that, after 21 calendar days

from the date of the mailing of the notice, the judgment shall have the same effect as an entry of judgment against a judgment debtor. The person or registered owner shall also be notified at that time that execution may be levied against his or her assets, liens may be placed against his or her property, his or her wages may be garnished, and other steps may be taken to satisfy the judgment. If a judgment is rendered for the processing agency, that agency may contract with a collection agency to collect the amount of that judgment.

(B) Notwithstanding any other law, the processing agency shall pay the established first paper civil filing fee at the time an entry of civil judgment is requested.

(3) If the registration of the vehicle has not been renewed for 60 days beyond the renewal date, and the citation has not been collected by the department pursuant to Section 4760, file proof of unpaid penalties and fees with the court with the same effect as a civil judgment as provided in paragraph (2).

(b) This section does not apply to a registered owner of a vehicle if the citation was issued prior to the registered owner taking possession of the vehicle, and the department has notified the processing agency pursuant to Section 4764.

(c) (1) For purposes of paragraph (1) of subdivision (a), a person is "indigent" if any of the following conditions is met:

(A) The person meets the income criteria set forth in subdivision (b) of Section 68632 of the Government Code.

(B) The person receives public benefits from any of the programs listed in subdivision (a) of Section 68632 of the Government Code.

(2) The person may demonstrate that he or she is indigent by providing either of the following information, as applicable:

(A) Proof of income from a pay stub or another form of proof of earnings, such as a bank statement, that shows that the person meets the income criteria set forth in subdivision (b) of Section 68632 of the Government Code, subject to review and approval by the processing agency or its designee. The processing agency or its designee shall not unreasonably withhold its approval.

(B) Proof of receipt of benefits under the programs described in subparagraph (B) of paragraph (1), including, but not limited to, an electronic benefits transfer card or another card, subject to review and approval by the processing agency. The processing agency or its designee shall not unreasonably withhold its approval.

(3) If a defendant's indigent status is found to have been willfully fraudulent, his or her fines and fees reduction shall be overturned and the full amount of fines and fees shall be restored.

SEC. 2. Section 40220.5 is added to the Vehicle Code, to read:

40220.5. (a) (1) A processing agency may only use the process set forth in Section 4760 to collect unpaid parking penalties that were issued before July 1, 2018, and related service fees, if the processing agency provides indigent persons with the payment plan program described in this section.

(2) A processing agency shall not be required to comply with this section to collect unpaid parking penalties that were issued before July 1, 2018, and related service fees, pursuant to the process set forth in Section 4760 for any person who does not file an application for an indigency determination, any person who falls out of compliance with a payment plan, except as set forth in subdivision (d), or any person who the processing agency has determined is not an indigent person.

(b) A processing agency shall provide notice on its Internet Web site of a person's ability to request an indigency determination to qualify for a payment plan pursuant to this section. The notice shall include all of the following information:

(1) The availability of a payment plan for indigent persons to pay parking penalties that were issued before July 1, 2018, and related service fees.

(2) Clear language about how a person can request an indigency determination and what that determination will entail.

(3) Documents needed by the processing agency to make an indigency determination.

(c) A processing agency shall provide an indigent person an opportunity to pay unpaid parking penalties that were issued before July 1, 2018, and related service fees, pursuant to a payment plan that, at a minimum, does all of the following:

(1) Allows payment of unpaid parking penalties that were issued before July 1, 2018, and related service fees, to be paid off in monthly installments of no more than twenty-five dollars (\$25) for total amounts due that are three hundred dollars (\$300) or less. However, unpaid parking penalties and related service fees shall be paid off within 18 months. There shall be no prepayment penalty for paying off the balance prior to the payment period expiring.

(2) Waives all late fees and penalty assessments, exclusive of any state surcharges described in Sections 70372, 76000, and 76000.3 of the Government Code. Waived late fees and penalty assessments may be reinstated if the indigent person falls out of compliance with the payment plan.

(3) Limits the processing fee to participate in a payment plan to five dollars (\$5) or less. The processing fee may be added to the payment plan amount, at the discretion of the indigent person.

(d) A processing agency shall allow an indigent person who falls out of compliance with the payment plan a one-time extension of 45 calendar days from the date the payment plan became delinquent to resume payments.

(e) A processing agency shall rescind the collection of unpaid parking penalties that were issued before July 1, 2018, and related service fees, with the department pursuant to the process set forth in Section 4760 for an indigent person, if the indigent person enrolls in a payment plan pursuant to this section.

(f) "Indigent" shall have the same meaning as set forth in subdivision (c) of Section 40220.

(g) This section shall remain in effect until January 1, 2027, and as of that date is repealed.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide financial relief through a unified payment plan option for indigent persons to resolve outstanding parking penalties at the soonest possible time, it is necessary that this act take effect immediately.