



# REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT  
April 18, 2006

Honorable Members of the  
Law and Legislation Committee

**Subject:** SB 1404 (Machado) Vehicles, parking violations, street cleaning.

**Location/Council District:** All Districts

**Recommendation:**

Oppose Senate Bill 1404 which proposes to amend Section 40202 of the Vehicle Code relating to vehicles, parking violations and street cleaning.

**Contact:** Azadeh Doherty, Staff Aide, 808-3137

Michael J. Melvin, Program Specialist 808-7475

**Presenters:** Michael J. Melvin, Program Specialist

**Department:** Transportation

**Division:** Planning and Policy

**Organization No:** 3416

**Summary:**

SB 1404 proposes to have the notice of parking violation include a statement that a violation of street cleaning ordinances will be dismissed if contested and the city in which the violation occurred is unable to demonstrate that the street upon which the violation occurred was cleaned on the date of the violation. This could increase the number of contested parking citations by as much as one third.

Currently, the City of Sacramento provides a number of services during hours that are designated for "Street Cleaning" which include:

Weekly - Garbage pickup

Weekly - Lawn and garden debris pickup (material is placed on the street)

Twice a month - Recycle pickup

Monthly - Street sweeping

Access to Curb and Gutter for other maintenance services

Restricting parking only when street sweeping actually occurs will not allow the City to perform these services and will cause a hardship for residents because parked vehicles will block the pickup of garbage, recyclables and lawn debris.



**Committee/Commission Action:** None.

**Background Information:**

It is a violation of existing law (Section 40202 of the California Vehicle Code) to park a vehicle on designated streets during scheduled street cleaning days. Vehicles will be cited by the peace officer or person authorized to enforce parking laws and regulations. In addition, a notice of parking violation setting forth specified information, including the type of violation, the date and time of the violation and the final date of payment for the fine must be posted securely to the vehicle.

SB 1404 proposes to have the notice of parking violation include a statement that a violation of street cleaning ordinances will be dismissed if contested and the city in which the violation occurred is unable to demonstrate that the street upon which the violation occurred was cleaned on the date of the violation.

**Financial Considerations:** Passage of SB 1404 will increase parking administrative costs and reduce parking violation fees.

**Environmental Considerations:** None

**Policy Considerations:** None

**Emerging Small Business Development (ESBD):** N/A

Respectfully Submitted by: \_\_\_\_\_



Howard Chan  
Parking Services Manager

Approved by: \_\_\_\_\_



Francesca Lee Halbakken  
Interim Director of Transportation

Recommendation Approved:

  
\_\_\_\_\_  
GUSTAVO F. VINA  
Assistant City Manager

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April 18, 2006

The Honorable Senator Machado  
California State Senate  
1020 N Street, Suite 506  
Sacramento, CA 95814

**Subject: Senate Bill 1404 (Machado) Vehicles, parking violations, street cleaning.**

Dear Senator Machado:

On behalf of the City of Sacramento, I write to oppose SB 1404 which proposes to amend Section 40202 of the Vehicle Code relating to vehicles, parking violations and street cleaning. SB 1404 proposes to have the notice of parking violation include a statement that a violation of street cleaning ordinances will be dismissed if contested and the city in which the violation occurred is unable to demonstrate that the street upon which the violation occurred was cleaned on the date of the violation. This could increase the number of contested parking citations by as much as one third.

Currently, the City of Sacramento provides a number of services during certain hours that are designated for "Street Cleaning" work which include:

Weekly - Garbage pickup  
Weekly - Lawn and garden debris pickup (material is placed on the street)  
Twice a month - Recycle pickup  
Monthly - Street sweeper sweeps the street  
Access to Curb and Gutter for other maintenance services

Restricting parking only when street sweeping actually occurs will not allow the City to perform these services and will cause a hardship for residents because parked vehicles will block the pickup of garbage, recyclables and lawn debris.

Thank you for your attention concerning the City of Sacramento's opposition to SB 1404.

Sincerely,

Lauren Hammond  
Councilmember

cc: Senator Deborah Ortiz  
Senator Dave Cox  
Assembly Member Dave Jones  
Assembly Member Alan Nakanishi  
Assembly Member Roger Niello  
Mayor Fargo and Members of the City Council  
Emanuel and Jones

**Introduced by Senator Machado**

February 22, 2006

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An act to amend Section 40202 of, and to add Section 40216 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1404, as introduced, Machado. Vehicles: parking violations: street cleaning.

(1) Existing law requires, if a vehicle is unattended during a parking violation, the peace officer or person authorized to enforce parking laws and regulations to securely attach to the vehicle a notice of parking violation setting forth specified information, including the violation, the date and time of the violation, and a statement printed on the notice indicating that the date of payment is required to be made not later than 21 calendar days from the date of citation issuance.

This bill would require the notice of parking violation also to include a statement that a violation of an ordinance for street cleaning will be cancelled if contested and the city in which the violation occurred cannot prove that the street upon which the violation occurred was cleaned on the date of the violation. The bill would require a parking violation of an ordinance for street cleaning to be cancelled if contested and the city in which the violation occurred cannot prove that the street upon which the violation occurred was cleaned on the date of the violation. The bill would require, upon request by a person for an initial review of a notice of parking violation by the issuing agency, the issuing agency to cancel the notice if the notice is for a violation of an ordinance for street cleaning, unless the issuing agency can verify that the street upon which the vehicle was found to be in violation of a street cleaning ordinance was

cleaned on the day of the violation. By imposing new duties or a local agency, the bill would impose a state-mandated local program.

The bill would contain legislative findings and declarations that the regulation of parking violations of an ordinance for street cleaning as specified is in need of uniform statewide regulation and constitutes a matter of statewide concern that is required to be governed solely by specified provisions of the Vehicle Code.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 40202 of the Vehicle Code is amended  
2 to read:  
3 40202. (a) If a vehicle is unattended during the time of the  
4 violation, the peace officer or person authorized to enforce  
5 parking laws and regulations shall securely attach to the vehicle a  
6 notice of parking violation setting forth the violation, including  
7 reference to the section of this code or of the Public Resources  
8 Code, the local ordinance, or the federal statute or regulation-  
9 violated; the date; the approximate time ~~thereof~~ *of the violation*;  
10 the location where the violation occurred; a statement printed on  
11 the notice indicating that the date of payment is required to be  
12 made not later than 21 calendar days from the date of citation  
13 issuance; *a statement printed on the notice that a violation of an*  
14 *ordinance for street cleaning will be cancelled if contested and*  
15 *the city in which the violation occurred cannot prove that the*  
16 *street upon which the violation occurred was cleaned on the date*  
17 *of the violation*; and the procedure for the registered owner,  
18 lessee, or rentee to deposit the parking penalty or, pursuant to  
19 Section 40215, contest the citation. The notice of parking  
20 violation shall also set forth the vehicle license number and

1 registration expiration date if they are visible, the last four digits  
2 of the vehicle identification number, if that number is readable  
3 through the windshield, the color of the vehicle, and, if possible,  
4 the make of the vehicle. The notice of parking violation, or a  
5 ~~copy thereof of the notice of parking violation~~, shall be  
6 considered a record kept in the ordinary course of business of the  
7 issuing agency and the processing agency and shall be prima  
8 facie evidence of the facts contained therein.

9 (b) The notice of parking violation shall be served by attaching  
10 it to the vehicle either under the windshield wiper or in another  
11 conspicuous place upon the vehicle so as to be easily observed by  
12 the person in charge of the vehicle upon the return of that person.

13 (c) Once the issuing officer has prepared the notice of parking  
14 violation and has attached it to the vehicle as provided in  
15 subdivisions (a) and (b), the officer shall file the notice with the  
16 processing agency. ~~Any~~ A person, including the issuing officer  
17 and ~~any~~ a member of the officer's department or agency, or ~~any~~  
18 a peace officer who alters, conceals, modifies, nullifies, or  
19 destroys, or causes to be altered, concealed, modified, nullified,  
20 or destroyed the face of the remaining original or ~~any~~ a copy of a  
21 citation that was retained by the officer, for any reason, before it  
22 is filed with the processing agency or with a person authorized to  
23 receive the deposit of the parking penalty, is guilty of a  
24 misdemeanor.

25 (d) If, during the issuance of a notice of parking violation,  
26 without regard to whether the vehicle was initially attended or  
27 unattended, the vehicle is driven away prior to attaching the  
28 notice to the vehicle, the issuing officer shall file the notice with  
29 the processing agency. The processing agency shall mail, within  
30 15 calendar days of issuance of the notice of parking violation, a  
31 copy of the notice of parking violation or transmit an electronic  
32 facsimile of the notice to the registered owner.

33 (e) If, within 21 days after the notice of parking violation is  
34 attached to the vehicle, the issuing officer or the issuing agency  
35 determines that, in the interest of justice, the notice of parking  
36 violation should be canceled, the issuing agency, pursuant to  
37 subdivision (a) of Section 40215, shall cancel the notice of  
38 parking violation or, if the issuing agency has contracted with a  
39 processing agency, shall notify the processing agency to cancel  
40 the notice of parking violation pursuant to subdivision (a) of

1 Section 40215. The reason for the cancellation shall be set forth  
2 in writing.

3 If, after a copy of the notice of parking violation is attached to  
4 the vehicle, the issuing officer determines that there is incorrect  
5 data on the notice, including, but not limited to, the date or time,  
6 the issuing officer may indicate in writing, on a form attached to  
7 the original notice, the necessary correction to allow for the  
8 timely entry of the notice on the processing agency's data  
9 system. A copy of the correction shall be mailed to the registered  
10 owner of the vehicle.

11 (f) Under no circumstances shall a personal relationship with  
12 ~~any~~ an officer, public official, or law enforcement agency be  
13 grounds for cancellation.

14 SEC. 2. Section 40216 is added to the Vehicle Code, to read:

15 40216. (a) Notwithstanding any other provision of law, if a  
16 violation of an ordinance for street cleaning is contested, and the  
17 city in which the violation occurred cannot prove that the street  
18 upon which the violation occurred was cleaned on the date of the  
19 violation, the notice of parking violation shall be cancelled.

20 (b) Notwithstanding Section 40215, upon request by a person  
21 for an initial review of a notice of parking violation by the  
22 issuing agency, the issuing agency shall cancel the notice if the  
23 notice is for a violation of an ordinance for street cleaning, unless  
24 the issuing agency can verify that the street upon which the  
25 vehicle was found to be in violation of a street cleaning  
26 ordinance was cleaned on the day of the violation. Acceptable  
27 verification includes contractor records, street cleaning  
28 equipment records, or a statement from a person employed or  
29 contracted by the issuing agency.

30 (c) The Legislature finds and declares that the regulation of  
31 parking violations of an ordinance for street cleaning provided in  
32 this chapter is in need of uniform statewide regulation and  
33 constitutes a matter of statewide concern that shall be governed  
34 solely by this chapter.

35 SEC. 3. If the Commission on State Mandates determines that  
36 this act contains costs mandated by the state, reimbursement to  
37 local agencies and school districts for those costs shall be made

1 pursuant to Part 7 (commencing with Section 17500) of Division  
2 4 of Title 2 of the Government Code.

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