



**Jesse Arreguín**  
Councilmember, District 4

ACTION CALENDAR  
October 28, 2014

To: Honorable Mayor and Members of the City Council

From: Councilmembers Jesse Arreguín and Gordon Wozniak

Subject: Street Sweeping Violations: Burden of Proof

RECOMMENDATION:

Refer to the City Manager for drafting a policy establishing that street sweeping violations are only valid if street sweeping had in fact occurred and, upon contest, that the burden of proof on whether or not street sweeping occurred falls on the City.

BACKGROUND:

In response to complaints that drivers were being ticketed for street sweeping that never even occurred, Senate Bill (SB) 1404 was introduced in 2006 by then Senator Michael Machado (D –Linden). SB 1404 would have required that citations issued for violating parking restrictions related to street sweeping be cancelled upon being contested if the city cannot prove that the street was cleaned on the date of the violation. Acceptable verification includes contractor records, street cleaning equipment records, or a statement from a person employed or contracted by the agency issuing the parking citation.

Unfortunately, the bill was vetoed by then Governor Arnold Schwarzenegger after intense lobbying by the League of Cities, including the City of Berkeley, due to administrative concerns and potential loss of revenue.

Cities have a significant fiscal incentive to operate efficient ticketing regimes, yet have little to no incentive to forgo citations if such street sweeping did not occur due to the burden of proof on the ticketed. It is unreasonable for an individual to shoulder the burden of proving that the City did *not* perform street sweeping, which requires nothing short of several hours of recorded video of the street during scheduled sweeping times. Individuals ticketed are often renters and persons of moderate incomes who cannot afford costly off-street parking. This policy seeks to ensure fairness for ticketed residents when streets are not cleaned while allowing cities to verify street cleaning using many different forms of documentation and fully enforce actual violations.

This policy is simply a matter of fairness: citations are a means to an end, not an end itself. If the very rationale for a citation is not present, then how is a penalty justified? Compliance is a two-way street.

The adoption of this policy will provide ample incentive to ensure that street sweeping occurs as scheduled and that citations will not be issued if no such street sweeping occurred.

FINANCIAL IMPLICATIONS:

Unknown.

CONTACT PERSON:

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ATTACHMENTS:

Copy of SB 1404 (2006)

**Senate Bill No. 1404**

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Passed the Senate August 23, 2006

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*Secretary of the Senate*

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Passed the Assembly August 17, 2006

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2006, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend, repeal, and add Section 22507.6 of the Vehicle Code, relating to vehicles.

## LEGISLATIVE COUNSEL'S DIGEST

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

Existing law allows a city or county, by ordinance or resolution, to prohibit or restrict the parking or standing of vehicles on designated streets or highways, or portions thereof, for the purpose of street sweeping, provided that the ordinance or resolution does not go into effect until a sign is posted setting forth the day or days and hours parking is prohibited or restricted.

This bill would specify that an ordinance or resolution adopted pursuant to the above may include an ordinance or resolution for street cleaning purposes. This bill would also provide that it does not constitute a violation of the ordinance or resolution if a person parks on a designated street or highway on the day or during the posted restricted or prohibited hours and during that posted period street cleaning or sweeping does not, in fact, occur. The bill would provide that these provisions become operative on January 1, 2008.

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

SECTION 1. Section 22507.6 of the Vehicle Code is amended to read:

22507.6. (a) A local authority may, by ordinance or resolution, prohibit or restrict the parking or standing of vehicles on designated streets or highways, or portions thereof, for the purpose of street sweeping.

(b) An ordinance or resolution adopted pursuant to subdivision (a) relating to the parking or standing of commercial vehicles in a residential district shall not be effective with respect to a commercial vehicle making pickups or deliveries of goods, wares, or merchandise from, or to a building or structure located

on the restricted street or highway, or for the purpose of delivering materials used in the repair, alteration, remodeling, or reconstruction of a building or structure for which a building permit has previously been obtained.

(c) An ordinance or resolution adopted pursuant to subdivision (a) shall not be effective until the street or highway, or portion thereof, has been sign-posted in accordance with the uniform standards and specifications of the Department of Transportation, or the local authority has caused to be posted in a conspicuous place at each entrance to the street a notice not less than 17 inches by 22 inches in size, with lettering not less than one inch in height, setting forth the day or days and hours parking is prohibited or restricted.

(d) As used in subdivision (c), “entrance” means the intersection of a street or streets comprising an area of restricted parking for street sweeping purposes on the same day or days and hours with another street or highway that is not subject to that parking restriction, or is subject to parking restrictions on different days and hours.

(e) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 2. Section 22507.6 is added to the Vehicle Code, to read:

22507.6. (a) A local authority may, by ordinance or resolution, prohibit or restrict the parking or standing of vehicles on designated streets or highways, or portions thereof, for the purpose of street cleaning or sweeping.

(b) An ordinance or resolution adopted pursuant to subdivision (a) relating to the parking or standing of commercial vehicles in a residential district shall not be effective with respect to a commercial vehicle making pickups or deliveries of goods, wares, or merchandise from, or to a building or structure located on the restricted street or highway, or for the purpose of delivering materials used in the repair, alteration, remodeling, or reconstruction of a building or structure for which a building permit has previously been obtained.

(c) (1) An ordinance or resolution adopted pursuant to subdivision (a) shall not be effective until the street or highway,

or portion thereof, has been sign-posted in accordance with the uniform standards and specifications of the Department of Transportation, or the local authority has caused to be posted in a conspicuous place at each entrance to the street a notice not less than 17 inches by 22 inches in size, with lettering not less than one inch in height, setting forth the day or days and hours parking is prohibited or restricted.

(2) As used in this paragraph (1), “entrance” means the intersection of a street or streets comprising an area of restricted parking for street cleaning or sweeping purposes on the same day or days and hours with another street or highway that is not subject to that parking restriction, or is subject to parking restrictions on different days and hours.

(d) A person is not in violation of an ordinance or resolution adapted under this section if that person parks a vehicle on a designated street or highway on the day or during hours that are identified in the posting under subdivision (c) and during that posted period street cleaning or sweeping does not, in fact, occur.

(e) This section shall become operative on January 1, 2008.

Approved \_\_\_\_\_, 2006

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*Governor*

