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March 2, 2012

Attorney General Kamala Harris
Office of Attorney General
455 Golden Gate Avenue
Suite 11000
San Francisco, California 94102

RE: Local Government Impound Policies

Dear Attorney General Harris:

Pursuant to Government Code section 12519, I request that your office issue a legal opinion regarding whether state law preempts a local government from establishing procedures authorizing the release of an impounded vehicle under certain specific circumstances.

As you may be aware, the Los Angeles Police Commission recently approved a measure allowing the Los Angeles Police Department to release the impounded vehicle of an unlicensed driver, when another licensed driver or the registered owner is available, rather than holding the vehicle for the full 30 days.

The Legislative Counsel Bureau and the Los Angeles District Attorney have both generated opinions suggesting that state law prohibits this practice. In contrast, the Los Angeles City Attorney opined that, "the Department is not required to direct impoundment of a vehicle driven by a never-licensed driver under the authority of Section 14602.6, although legislative intent supports impoundment under that statute. Assuming there is a community caretaking basis for impoundment, the Department may, in our view, legally direct impoundment of such a vehicle under either Section 22651(p) or Section 14602.6, both of which are discretionary."

I believe that the Los Angeles Police Department has the discretion to modify its enforcement of the impoundment of unlicensed drivers' vehicles. In view of these conflicting interpretations of the state Vehicle Code Sections, I request that the Office of the Attorney General, as the chief law office of the state, issue a legal opinion on this matter as soon as possible.

If you have any questions please do not hesitate to contact me directly at (916) 651-4022.

Sincerely,

A handwritten signature in blue ink that reads "Kevin de León".

KEVIN DE LEÓN
Twenty-Second Senate District

cc: Susan Lee, Supervising Deputy Attorney General Opinion Unit