
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No: AB 1197 **Hearing Date:** July 15, 2025
Author: Calderon
Version: June 26, 2025
Urgency: No **Fiscal:** No
Consultant: SU

Subject: *Rental passenger vehicles: electronic surveillance technology:
renter liability for loss due to theft*

HISTORY

Source: American Car Rental Association

Prior Legislation: AB 2741 (Haney), Ch. 970, Stats. of 2024
AB 1185 (O'Donnell), not heard in Senate Judiciary, 2018
AB 2169 (Voepel), vetoed, 2018
AB 2620 (Ting), Ch. 344, Stats. of 2018
AB 2051 (O'Donnell), Ch. 183, Stats. of 2016
AB 2840 (Corbett), Ch. 317, Stats. of 2004

Support: California Travel Association

Opposition: Consumer Federation of California; Consumers for Auto Reliability and Safety;
Oakland Privacy

Assembly Floor Vote: 73 - 0

PURPOSE

The purpose of this bill is to expand the ability of rental car companies to use electronic surveillance on rental vehicles and to narrow the scope of a consumer protection which establishes a rebuttable presumption that the renter is not liable for the theft.

Existing law creates a presumption that a person who has leased or rented a vehicle and willfully and intentionally fails to return it to its owner within five days after the lease or rental agreement has expired, is presumed to have embezzled the vehicle. (Veh. Code, § 10855.)

Existing law provides that every person guilty of embezzlement is punishable in the manner prescribed for theft of property of the value or kind embezzled. (Pen. Code, § 514.)

Existing law states that theft of a vehicle constitutes grand theft. (Pen. Code, § 487, subd. (d)(1).)

Existing law punishes grand theft of a vehicle by imprisonment in a county jail not exceeding one year, or in the county jail for 16 months, or two or three years pursuant to realignment. (Pen. Code, § 489, subd. (c)(1).)

Existing law creates a presumption that a person renting a vehicle is not liable for any loss due to theft if:

1. Either an authorized driver has possession of the ignition key furnished by the rental company; or,

An authorized driver establishes that the ignition key furnished by the rental company was not in the vehicle at the time of the theft; and,

2. An authorized driver files an official report of the theft with the police within 24 hours of learning of the theft, and reasonably cooperates with the rental company and law enforcement agency in providing information concerning the theft. (Civ. Code, § 1939.03, subd. (b).)

Existing law provides that the rental company may rebut this presumption by establishing that an authorized driver committed, or aided and abetted the commission of, the theft. (Civ. Code, § 1939.03, subd. (b).)

This bill provides that the first element of establishing the rebuttable presumption that a renter is not liable for theft of a rental vehicle only if an authorized driver returns the ignition key furnished by the rental company.

Existing law provides, pursuant to the California Constitution, that all people are by nature free and independent and have inalienable rights. Among these the fundamental right to privacy. (Cal. Const. art. I, § 1.)

Existing law prohibits a rental car company from using, accessing, or obtaining any information relating to the renter's use of the rental vehicle that was obtained using electronic surveillance technology, except in limited circumstances. (Civ. Code, § 1939.23, subd. (a).)

Existing law allows rental car companies to use electronic surveillance technology in response to a specific request from law enforcement pursuant to a subpoena or search warrant. (Civ. Code, § 1939.23, subd. (a)(2).)

Existing law allows rental car companies to use electronic surveillance technology for the purpose of locating a stolen, abandoned, or missing rental vehicle after one of the following conditions is met:

1. The renter or law enforcement has informed the rental company that the vehicle is missing or has been stolen or abandoned;
2. The rental vehicle has not been returned following 24 hours after the contracted return date or 24 hours after the end of an extension of that return date, except as specified;
3. The rental car company discovers that the vehicle has been stolen or abandoned and, if stolen, reports the vehicle stolen to law enforcement by filing a stolen vehicle report, unless law enforcement has already informed the rental company that the vehicle is missing or has been stolen or abandoned;
4. The rental vehicle is the subject of an AMBER Alert, as defined. (Civ. Code, § 1939.23, subd. (a)(1).)

This bill allows a rental car company to use geofence technology to detect the movement of a rental vehicle in either of the following circumstances:

1. The rental vehicle is moved outside of the country, if travel outside of the country is not authorized by the rental agreement.
2. The rental vehicle is moved into an impound or tow yard. The rental company shall notify the renter that the vehicle has been detected within an impound or tow yard.

This bill provides that if the rental vehicle remains within the perimeter of an impound or tow yard for 24 hours after the notification, the renter is deemed to have abandoned the vehicle.

COMMENTS

1. Need for This Bill

According to the author:

Since 2023, California has experienced the most auto thefts in the country. According to the National Insurance Crime Bureau, over 200,000 auto crimes have been reported in our state over the last two years. Rental car fleets are easy targets, since car theft rings face limited repercussions under current law. AB 1197 modernizes rental car recovery in the event of a theft or unauthorized usage of the vehicle.

2. Limitations on GPS Tracking by Rental Car Agencies

The use of GPS tracking technology implicates an individual's right to privacy. (See e.g. *United States v. Jones* (2012) 565 U.S. 400, 404 [installation of a GPS tracking device on the undercarriage of a vehicle by law enforcement constitutes a search].) "GPS monitoring generates a precise, comprehensive record of a person's public movements that reflects a wealth of detail about her familial, political, professional, religious, and sexual associations." (*Id.* at p. 415, [J. Sotomayor concurring opinion].) Concerns about protecting the privacy of Californians, as well as visitors to California, have grown significantly in recent years. In the aftermath of the *Dobbs v. Jackson Women's Health Organization* (2022) 597 U.S. 215, holding that there is no fundamental constitutional right to have an abortion, and the subsequent enactment of legislation in other states limiting access to abortion and gender-affirming health care, California has enacted several laws protecting electronic privacy.¹

Recognizing the importance of the right to privacy, California currently prohibits rental car companies from tracking vehicles with global positioning system (GPS) devices, except in a few narrowly defined situations. (Civ. Code § 1939.23, subd. (a).) A rental car company is prohibited from using, accessing, or obtaining any information relating to a renter's use of a rental vehicle that was obtained using electronic surveillance technology, except in two circumstances. The

¹ For example, AB 1242 (Bauer-Kahan), Chapter 627, Statutes of 2022, protects reproductive digital information handled by companies incorporated or headquartered in California. AB 45 (Bauer-Kahan), currently pending hearing in the Senate Judiciary Committee, would prohibit geofencing near healthcare facilities and expand protections for personally identifiable data collected within them.

first exception is in direct response to a specific request from law enforcement pursuant to a subpoena or search warrant. (Civ. Code, § 1939.23, subd. (a)(2).) The second is when the equipment is used only for the purpose of locating a stolen, abandoned, or missing rental vehicle, after one of several enumerated conditions are met. (Civ. Code, § 1939.23, subd. (a)(1).) These include: that the rental company has discovered the rental vehicle has been stolen or abandoned, either through the renter, law enforcement, or other means; that the vehicle is the subject of an AMBER Alert; or that the vehicle has not been returned 24 hours after the contracted return date. (*Ibid.*)

The original statute prohibiting a rental car company from using, accessing or obtaining information relating to the renter's use of the rental vehicle that was obtained using GPS was enacted in 2004. (AB 2804 (Corbett), Ch. 317, Stats. of 2004.)² Initially, there was a one week waiting period in order to use GPS to track the vehicle. The law was amended in 2018 to allow a company to use electronic surveillance to track a vehicle when the vehicle has not been returned 72 hours after the contracted return. (AB 2620 (Ting) Ch. 344, Stats. of 2018.) That bill put a sunset on those provisions to allow the Legislature to reconsider them should any issues arise. Just last year legislation shortened the timeline for activating electronic surveillance technology to 24 hours after the scheduled return date and removed the sunset on the provision.. (AB 2741 (Haney), Ch. 970, Stats. of 2024.)

This bill again once amends the limitations allowing the use of surveillance technology by rental car companies by allowing geofence technology to be used to track if a vehicle leaves the country or if a vehicle is moved into an impound or tow yard.

Geofencing involves creating a “virtual perimeter” around a specific location using the location's IP address. Commonly, geofences are defined by drawing a circle around the desired location on Google Maps using the application programming interfaces created during app development. The circle represents the geofence that will trigger a response whenever an authorized device enters or exits that area. (Rahul Awati, "geofencing", *TechTarget* (December 2022), <https://www.techtarget.com/whatis/definition/geofencing> [as of July 4, 2025].) These perimeters can range in size from entire states to a single business or building.

It is unclear if all rental car companies currently have the capability to geofence not only all impound and tow yards within California, but also in other states since sometimes individuals drive out of state with their rental car. However, it is certainly possible for rental car companies to develop such a program. But, this raises the question of whether it is possible for a rental car company to know that a vehicle was located within an impound lot or tow yard if it was not already using electronic surveillance to track the vehicle?³ Does creating this exception swallow the general rule which generally prohibits a rental car company from using electronic surveillance technology to obtain information related to the use of the rental car (i.e. location)? (See Civ. Code, § 1939.23, subd. (a).) Moreover, in the event that an authorized driver believes that the vehicle has been towed or stolen, they would inform the rental car company in which case electronic surveillance technology could be activated under existing law. (See Civ. Code, § 1939.23, subd. (a)(1)(A)(i).)

² The provisions were later reorganized and are currently found in Section 1939.23 of the Civil Code.

³ As Oakland Privacy's opposition letter notes: To be clear, there is no way for that technology to be operable without 24/7 locational data being piped in to the rental car company for the entire time the rental car is in use.

3. Consumer Protections Relating to Theft and Embezzlement

This bill also amends existing law regarding the determination of liability when a rental vehicle is stolen. Currently a renter is presumed to have no liability for any loss due to theft if either (1) an authorized driver has possession of the ignition key furnished by the rental company *or* (2) an authorized driver establishes that the ignition key furnished by the rental company was not in the vehicle at the time of the theft. In addition, the renter must also have filed a police report reporting the theft within 24 hours of learning the theft occurred and reasonably cooperate with the rental company and law enforcement in providing information concerning the theft. This presumption can be rebutted by the rental company. (Civ. Code, § 1939.03, subd. (b).)

This bill modifies the conditions for invoking the presumption by requiring the renter to physically return the ignition key furnished by the rental company, rather than allowing the alternative showing that the key was not in the vehicle or confirming that the key is in the driver's possession. The requirement to file a timely police report and cooperate remains unchanged, and the bill continues to treat the presumption as one affecting the burden of proof.

It should be noted that most newer cars are enabled with keyless or remote ignition. The key fob has a signal that is transmitted to the vehicle computer system to allow the owner to start the car with the push of a button or to enter without inserting a physical key. The owner can unlock or start their car by having their key fob near it.

Unfortunately, the new technology is also making cars easier to steal. “The added convenience of being able to start a vehicle without actually being in it is complicated by new advancements in technology being employed by thieves to steal newer cars, according to authorities. Thieves typically take advantage of keyless entry systems by using an aftermarket device – normally about the size of a cell phone or small tablet – to remotely scan for a key fob signal and quickly create a cloned key.” (<https://ktla.com/news/consumer-business/southern-california-police-warning-residents-of-increase-in-key-cloner-car-thefts/> [as of June 23, 2025].) According to law enforcement, “Similar devices can plug in underneath a car’s dashboard and download the vehicle’s information, which can then be programmed into a blank key fob by thieves.” (*Ibid.*; see also <https://www.cbsnews.com/losangeles/news/police-warn-residents-about-rise-in-key-cloner-car-thefts-in-san-fernando-valley/> [as of June 23, 2025] [police warning residents of a rise in “key cloner” car thefts in the San Fernando Valley, where thieves have been using electronic devices to replicate key fobs].)

To this end, this committee just approved AB 486 (Lackey) to expand the crime of possession of burglar tools to include to include key programming devices, key duplicating devices, and signal extenders. AB 486 defines “key programming device” or “key duplicating device” as any device with the capability to access a vehicle’s onboard computer to allow additional keys to be made, delete keys, or remotely start the vehicle without the use of any key. A key duplicating device also includes any device with the ability to capture a key code or signal in order to remotely access a vehicle. The bill defines “signal extender” as a key fob amplifier or other device that extends the signal range of a keyless entry car fob to send a coded signal to a receiver in a vehicle to lock, unlock, access a vehicle, start the engine, or interact with other remote commands associated to the vehicle’s onboard computer.

Given the proliferation of the use of signal extenders, key programming devices, key duplicating devices, should the Legislature take away a consumer protection directly related to their use? It is unclear how changing the manner in which renters can invoke the presumption against their liability for the theft will help deter the theft of rental cars.

4. Argument in Support

According to the American Car Rental Association:

Vehicle theft, fraud, the commission of crimes in rental vehicles, abandonment and misuse of vehicles, and predatory towing practices are significant issues in California. Additional circumstances frequently arise during the rental of a vehicle, including accidents, citations or vehicle recalls which require timely assistance or recovery of vehicles by rental car companies. Unfortunately, current law makes it difficult to successfully recover rental vehicles quickly and does not contemplate recent technology and changes in privacy laws. This excessively restricts car rental companies in the management of their fleets, their ability to deter criminal activity, and protect our customers' safety.

AB 1197 would allow rental car companies to use GPS to detect the movement of a rental vehicle outside the country, if not authorized by the rental agreement, or if deemed abandoned in a tow yard for more than 24 hours. Additionally, this bill presumes that a renter has no liability for any loss due to theft if an authorized driver returns the ignition key furnished by the rental company.

AB 2741, Haney (Chaptered 2024) decreases the time that a rental company must wait after the contracted or extended return date before activating electronic surveillance technology to 24 hours, and removes the 24-hour notice requirement prior to activating the electronic surveillance technology. AB 1197 expands on the provisions and concepts of AB 2741, thereby improving the recovery of abandoned, misused, overdue, or stolen vehicles.

5. Argument in Opposition

According to the Consumer Federation of California:

This bill weakens consumer protections, particularly consumer privacy protections.

Modern vehicles are so highly technologically advanced that they are being dubbed "smartphones on wheels". Although such services provide access to drivers' data to enable customizable features, consumers have very limited control over what happens to their personal information—especially in cases where the car is rented rather than owned. A survey conducted by the non-profit Mozilla Foundation, titled "It's official: Cars are the worst product category we have ever reviewed for privacy," draws attention to the lack of control drivers have over the personal data collected by their vehicles. The survey findings indicate that security standards in this area are often unclear, which raises significant concerns given the automotive industry's past vulnerabilities to hacking. Specifically, after analyzing 25 car brands, researchers identified several problematic practices common among most or all of these brands. These problematic practices include excessive collection of personal data, sharing or

selling consumers' data, and providing limited control to drivers over their personal data. The commodification of consumers' data is an ongoing concern, and allowing rental car companies access to consumers' private information significantly erodes decades of privacy protections in California. Instead of adding to existing protections, AB 1197 goes the opposite direction by weakening consumer protections, most importantly consumer privacy protections.

The current version of AB 1197 has two specific significant problems that cause CFC to oppose the bill. In order of importance they are:

- 1) Section 2 of the bill, which amends Section 1939.23 of the Civil Code, directly and confoundingly contradicts itself within subdivision (a) of that code section due to changes being proposed in AB 1197. Specifically, in provision 1939.23(a)(3) language allows for a rental car company to use *“geofence technology to detect the movement of a rental vehicle in either of the following circumstances: (A) The rental vehicle is moved outside of the country, if travel outside of the country is not authorized by the rental agreement. (B) The rental vehicle is moved into an impound or tow yard. If the vehicle remains within the perimeter of the impound or tow yard for 24 hours, the vehicle shall be deemed abandoned by the renter.”*

This language in 1939.23(a)(3) serves as exceptions to the beginning of subdivision (a) of Section 1939.23, which states clearly that “A rental company shall not use, access, or obtain any information relating to the renter’s use of the rental vehicle that was obtained using electronic surveillance technology”.

The problem with the exception language is that it begs the obvious question as to how a rental car company could possibly know when a car has either left the country (presumably Mexico, since we are dealing with California law here and that is the only international border) or has entered a tow or impound yard unless the rental car company has actually been violating subdivision (a)’s prohibition on using electronic surveillance technology during the rental period of the consumer. The logical tautology makes the mind hurt just thinking about it.

At a policy committee hearing on the bill in the house of origin the contract lobbyist for the rental car industry stated clearly on the record that the rental car industry did not have the technological capability to geofence around all impound and tow yards. Taking him at his word, this means that the only way a rental car company would know if a car entered an impound or tow yard is if the rental car company was tracking the vehicle the whole time, which would automatically mean that 1939.23(a) is being constantly violated by the rental car industry, a stunning admission.

Furthermore, the provision that automatically makes any rental car that has been in a tow or impound yard for more than 24 hours automatically “deemed abandoned by the renter” flies in the face of the reality of how impound and tow yards actually work, which is that they have limited day and hours when they are open and consumers have, for decades, struggled with the additional charges, often over a weekend, from having to pay more to get a car out of an impound or tow lot that was closed.

Overall this provision simply appears to confirm that the rental car industry is tracking consumers constantly, which is to say they appear to be routinely breaking current law. This is bad public policy, internally inconsistent and should be stricken from the bill.

- 2) In Section 1 of the bill, which amends Section 1939.03 of the Civil Code, the bill requires that consumers renting a car do two things in order to get the presumption that they have no liability for any loss of the rental car due to theft. The two things (really three) a consumer must do are: 1) return the ignition key, and 2) file a police report within 24 hours of the theft and (still part of number 2) “reasonably cooperates with the rental company and the police or other law enforcement agency in providing information concerning the theft.” This is a rebuttable presumption that may be challenged by the rental car company.

The main problem with this provision is that it creates a situation where the rental car company is both judge and jury about whether a consumer “reasonably cooperates” with the rental car company. One can imagine that, with a potentially significant amount of money on the line due to a stolen car, the rental car company has a vested interest in finding that a consumer/renter did not reasonably cooperate with the rental car company, and therefore potentially be liable for the loss of the car due to theft. This is a problematic and self-reverential test that should be amended to avoid the kind of self-determination by the rental car industry that is currently in print.

Secondly, this provision raises obvious common sense concerns for reasonable situations where a renter would not be able to return the ignition key to a car. For example, if the key to the rental car was in a purse that was lost or stolen the consumer could not provide to the rental car company the ignition key. Another example is if a consumer is robbed and the ignition key is taken as part of the robbery. There are many more obvious examples that make the practical applicability of this provision, which definitely has high financial stakes for the consumer, deeply problematic.

In summary, CFC and CARS strongly believes that Section 2 of the bill should revert to current law and be deleted in its entirety, while Section 1 of the bill should be substantially amended to avoid the kind of common sense problems that it will dredge up time and time again under the control of the rental car industry.

– END –