

BILL ANALYSIS

CSHB 560
By: Pickett
Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Chapter 684 of the Transportation Code is entitled *Removal of Unauthorized Vehicles from Parking Facility or Public Roadway*. It comprises these subchapters:

- Subchapter A. General Provisions.
- Subchapter B. Unauthorized Vehicle.
- Subchapter C. Signs Prohibiting Unauthorized Vehicles and Designating Restricted Areas.
- Subchapter D. Regulation of Parking on Certain Public Roadway Areas.
- Subchapter E. Regulation of Towing Companies and Parking Facility Owners.
- Subchapter F. Miscellaneous Provisions.

Subchapter B would be amended by Committee Substitute House Bill 560. Among other things, subchapter B prohibits improperly parked, unattended vehicles at a parking facility, provides for the removal and storage of unauthorized vehicles, and regulates the authority of towing companies. A parking facility is defined to include private property used as a parking area adjacent to any “business, church, school, home, [and] apartment complex.” C.S.H.B. 560, limited to vehicles parked at apartment complexes, would authorize the removal of parked vehicles that constitute obstructions, are parked in a tow away zone, are semi trailers etc., or are leaking dangerous fluids. C.S.H.B. 560 would expressly disallow the towing of a parked vehicle at an apartment complex because the state registration has expired or a license plate is expired.

Currently, there is no uniform set of rules for parking in an apartment complex’s parking lot. Apartment managers also may require tenants to have both a current vehicle registration sticker and inspection sticker in order to have parking privileges at the complex. Tenants in violation of this policy face the risk of having their vehicles towed away.

This type of violation is considered primarily a moving violation enforced by law enforcement officers under the Texas Transportation Code.

C.S.H.B. 560 would establish a uniform set of rules for parking in an apartment building’s parking lot. It would also prohibit apartment complex managers from towing a vehicle merely for having an expired registration or inspection sticker.

RULEMAKING AUTHORITY

This bill does not expressly delegate any additional rulemaking authority to a state officer, department, agency or institution.

SECTION-BY-SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 684, Transportation Code, by adding Section 684.0125 as follows:

Adds Subsection (a) to state that this section applies only to a parking facility serving or adjacent to an apartment complex consisting of one or more residential apartment units and any adjacent real property serving the apartment community.

Adds Subsection (b) to state that the owner or operator of a vehicle may not leave unattended on a parking facility a vehicle that: obstructs a gate that is designed for pedestrian or vehicular use; obstructs the area used for placement of a garbage or refuse receptacle; obstructs a restricted parking area or an otherwise designated area; is in a tow away zone, other than a fire lane; is a semitrailer, trailer, or truck-tractor as defined by Chapter 502, unless the owner or operator of the vehicle is permitted under the terms of a rental or lease agreement with the apartment complex to leave the unattended vehicle on the parking facility; or is leaking a fluid that presents a hazard or threat to persons or property.

Adds Subsection (c) to state that emergency vehicles may not be removed from the parking facility.

Adds Subsection (d) to state that except as provided for by a contract described in Subsection (e), a parking facility owner may not have a vehicle removed from the parking facility merely because the vehicle does not display an unexpired licence plate or registration insignia issued for the vehicle under Chapter 502 or of another state or country, or a valid vehicle inspection certificate issued under Chapter 548 or of another state or country.

Adds Subsection (e) to state that a contract provision providing for the removal from a parking facility of a vehicle that falls under Subsection (d) is valid only if the provision requires the owner or operator of the vehicle to be given at least 10 days' written notice that the vehicle will be towed at the vehicle owner or operator's expense if it is not removed from the parking facility. The notice must be delivered in person or sent by certified mail, return receipt requested, to the owner or operator of the vehicle.

Adds Subsection (f) to state that this section may not be construed to authorize the owner or operator of a vehicle to leave an unattended vehicle on property that is not designed or intended for the parking of vehicles, or to limit or restrict the enforcement of the abandoned motor vehicle law.

Adds Subsection (g) to state that a provision of an apartment lease or rental agreement that is entered into or renewed after January 1, 2004, that is in conflict with this section is void and may not be enforced.

SECTION 2. Effective date

EFFECTIVE DATE: January 1, 2004

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 560 adds new language to the original by clarifying the language to state that this bill applies to any adjacent real property serving the apartment community. The substitute adds new language requiring a parking facility owner to provide notice to the owner or operator of the vehicle by actual notice in person or sent by certified mail, return receipt requested, at least 10 days' before towing the vehicle for an expired licence plate or invalid vehicle inspection certificate. The substitute adds new language to the original by stating that this bill may not be construed to authorize the owner or operator of a vehicle to leave an unattended vehicle on property that is not designated for the parking of vehicles or limit or restrict enforcement of the abandoned motor vehicle law. The substitute adds new language to the original by requiring that a provision of an apartment lease or rental agreement entered into or renewed on or after January 1, 2004, be void if it is in conflict or inconsistent with this bill. The Substitute replaces the effective date of the original with January 1, 2004.