

## **BILL ANALYSIS**

C.S.H.B. 1808  
By: Hill  
Transportation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The federal deregulation of the trucking industry created a federal preemption, at least in part, of local governments' authority to regulate private property towing. The courts are in the process of reviewing cases and clarifying the federal law but one important issue has been resolved, local governments do have the authority to regulate safety and rates for nonconsensual towing including private property towing. Nevertheless, some towing companies have proceeded as if local governments have no authority and are charging exorbitant and inconsistent rates. While many municipalities set nonconsensual tow rates by ordinance, counties do not have ordinance making authority. Therefore, disreputable tow operators are towing vehicles outside of city limits so that they are not subject to regulation. Today, it is not unusual for a person to be charged up to \$500 for passenger vehicle tow while the established rate in a nearby city is less than \$100. And a large commercial vehicle may be charged in excess of \$2,000 for a tow from private property.

C.S.H.B 1808 clarifies local governments' authority, municipal and county, to regulate nonconsensual tow rates including private property towing. The bill establishes what an excessive towing rate is for areas where local government has not set towing rates. It also requires that nonconsent towing rates be filed with the Texas Department of Transportation to be posted on the agencies website as well as requiring that rates be posted at vehicle storage facilities. C.S.H.B 1808 expands penalties for excessive towing fees.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant additional rulemaking authority to a state officer, department, agency or institution.

### **SECTION-BY-SECTION ANALYSIS**

Section 1. Amends Section 643.053, Transportation Code to require an annual registration fee of \$25 rather than \$10 for a tow truck.

Section 2. Amends Section 643.057, Transportation Code to require an annual registration fee \$25 rather than \$10 for a tow truck and provides that the department may not collect more than \$25 for the registration of a tow truck.

Section 3. Amends Section 643.058, Transportation Code to require a fee of \$25 rather than \$10 for annual renewal of a tow truck registration.

Section 4. Amends Section 643.061, Transportation Code to require a fee of \$50 rather than \$20 for a two-year tow truck registration or renewal.

Section 5. Amends Section 643.101, Transportation Code to require that the owner of a tow truck performing nonconsent tows maintain at least \$50,000 of on-hook cargo insurance per truck.

Section 6. Adds new provisions to the Transportation Code providing political subdivisions with clear authority to regulate nonconsent tow rates. Provides that if a political subdivision does not regulate the

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fee for nonconsent private property towing then a towing company may not charge a fee more than one and one-half times the fee charged for a nonconsent tow requested by law enforcement. Requires that a vehicle be delivered to a licensed vehicle storage facility with fees regulated by the Vehicle Storage Facility (Chapter 2303, Occupations Code) and provides that no additional fees may be charged without prior written consent of the vehicle owner or operator. Requires that towing and storage fees be posted at the storage facility and requires towing companies to submit their rates to the department annually to be posted on the agencies website. Requires that a political subdivision regulating nonconsent tow rates establish procedures by which a towing company may request a rate study.

Section 7. Amends Section 643.252, Transportation Code by providing that a tow truck registration may be suspended or revoked for failure to maintain insurance as required by Section 643.101(a).

Section 8. Amends Section 643.253, Transportation Code by amending the heading.

Section 9. Amends Section 643.253, Transportation Code to provide that violations are a Class C misdemeanor punishable by fines of \$200 to \$1,000 per violation and authorizes law enforcement officers to issue tickets for violations.

Section 10. Amends Section 658.009, Transportation Code to authorize a court hearing on whether the amount charged exceeds the maximum allowed rate and allows the court to require the towing company to pay the vehicle owner any excessive charges.

Section 11. Effective date.

#### **EFFECTIVE DATE**

September 1, 2003

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

CSHB 1808 makes changes in the drafting format by only including amended sections of Transportation Code. CSHB 1808 restructures Section 5 of the bill by adding new sections to the Transportation Code rather than amending Section 643.201 as in the filed bill. In the substitute the penalty provisions and provisions relating to court hearings are revised to conform with the changes made in Section 5. CSHB 1808 deletes the language relating to the suspension or revocation of a registration by the Texas Department of Transportation.

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