

1-1 By: Carona, Shapleigh, Deuell S.B. No. 165
1-2 (In the Senate - Filed January 6, 2003; January 30, 2003,
1-3 read first time and referred to Committee on Infrastructure
1-4 Development and Security; February 27, 2003, reported adversely,
1-5 with favorable Committee Substitute by the following vote: Yeas 8,
1-6 Nays 0; February 27, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 165 By: Lindsay

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the authority of certain law enforcement agencies to
1-11 remove certain personal property from a roadway or right-of-way.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter G, Chapter 545, Transportation Code,
1-14 is amended by adding Section 545.3051 to read as follows:

1-15 Sec. 545.3051. AUTHORITY TO REMOVE PERSONAL PROPERTY FROM
1-16 ROADWAY OR RIGHT-OF-WAY. (a) In this section:

1-17 (1) "Law enforcement agency" means:

1-18 (A) the department;

1-19 (B) the police department of a municipality;

1-20 (C) the sheriff's office of a county; or

1-21 (D) the constable's office of a county with a
1-22 population of three million or more.

1-23 (2) "Personal property" means:

1-24 (A) a vehicle described by Section 545.305;

1-25 (B) spilled cargo;

1-26 (C) a hazardous material as defined by 49 U.S.C.
1-27 Section 5102 and its subsequent amendments; or

1-28 (D) a hazardous substance as defined by Section
1-29 26.263, Water Code.

1-30 (b) A law enforcement agency may remove personal property
1-31 from a roadway or right-of-way if the agency determines that the
1-32 property blocks the roadway or endangers public safety.

1-33 (c) Personal property may be removed under this section
1-34 without the consent of the owner or carrier of the property.

1-35 (d) The owner and any carrier of personal property removed
1-36 under this section shall reimburse the law enforcement agency for
1-37 any reasonable cost of removal and disposition of the property.

1-38 (e) Notwithstanding any other provision of law, a law
1-39 enforcement agency is not liable for:

1-40 (1) any damage to personal property removed from a
1-41 roadway or right-of-way under this section, unless the removal is
1-42 carried out recklessly or in a grossly negligent manner; or

1-43 (2) any damage resulting from the failure to exercise
1-44 the authority granted by this section.

1-45 SECTION 2. This Act takes effect immediately if it receives
1-46 a vote of two-thirds of all the members elected to each house, as
1-47 provided by Section 39, Article III, Texas Constitution. If this
1-48 Act does not receive the vote necessary for immediate effect, this
1-49 Act takes effect September 1, 2003.

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