

BILL ANALYSIS

C.S.H.B. 1399
By: Dutton
Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, a landlord, apartment complex or management company can contract with a towing service to remove vehicles from leased premises that may be parked illegally or without permission of the landlord, apartment complex or management company. Often, vehicles are towed from the premises without the owner's knowledge or permission, and at the discretion of the towing company. These rules and policies usually contained in a lease agreement, but these disclaimers are not conspicuously printed in bold-faced type.

C.S.H.B. 1399 would require a landlord to provide a tenant a copy of any vehicle towing rules or policies adopted by the landlord either within the lease, within an attachment to the lease, or on a separate document, requiring the tenant's signature. The bill would also require a landlord to provide tenants with written notice of any change in the vehicle towing rules and policies, requires the tenant's signature to secure delivery, and requires that a tenant consent to the changes. If a landlord violates any of these policies, he or she would be liable for a civil penalty in the amount of \$100 plus any towing or storage costs, attorney's fees and court costs, as well as any damages to the tenant's vehicle resulting from the tow.

RULEMAKING AUTHORITY

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

ANALYSIS

C.S.H.B. 1399 would amend Section 92.013(a), Property Code, to require that a landlord provide a copy of any applicable parking rules or policies, and any changes that may be made to those rules or policies.

The bill also amends Section 92.0131, Property Code, to require that a landlord, upon entering into a lease agreement with a tenant, provide to the tenant the towing and parking policies or rules before the lease agreement is entered into. The tenant policies or rules must be signed by the tenant and may be contained in the lease, as an attachment to the lease, or as a separate document. If the policies or rules are contained in the lease or an attachment, the section must be entitled "Parking" or "Parking Rules" and be capitalized, underlined, or in bold print. If the policies or rules are changed by the landlord, the landlord must provide the written notice to the tenant by specific means. If changes are made during the rental term, the new policies must apply to all of the landlord's tenants within the same rental complex and be must be consented to by the tenant in writing. The changes may not go into effect before the 14th day after the written notice is provided to the tenants unless the changes are a result of construction or utility emergency.

Finally, the bill provides that a landlord that violates Subsection (a), (b), (c), or (d) of Section 92.0131, Property Code, is liable for a civil penalty in the amount of \$100 as well as any towing or storage costs that a tenant incurs as a result of the towing of a vehicle. A non-prevailing party in a suit under this section is liable for attorney's fees and court costs. A landlord is also liable for any damage done to a car as a result of the negligence of a towing service who contracts with the landlord if the towing company does carry insurance to cover the damage.

The changes to law applies to only those lease agreements entered into or renewed and damage that occurs to a vehicle on or after January 1, 2006.

C.S.H.B. 1399 79(R)

EFFECTIVE DATE

This Act takes effect January 1, 2006.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original only required that the changes in policy or rules be provided in a separate document and signed by the tenant and did not give the landlord the option of providing the rules or policies within the lease agreement contained in the substitute version.

The original did not spell out options for providing notice of changes to the rules or policies, held the landlord liable for a \$500 civil penalty rather than \$100 plus towing or storage costs and attorney's fees for the non-prevailing party in a suit filed under Section 92.0131. Also, the original provided that a management company could be liable for any damages done to a vehicle, which has been removed in the substitute. Finally, the original held the landlord responsible for all damages done to a tenants vehicle. The substitute holds the landlord liable for damage done to a tenants vehicle only if the towing company does not have insurance to cover the damages.