

BILL ANALYSIS

C.S.H.B. 2630
By: Hill
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Since the last legislative session, three issues relating to vehicle towing and storage have arisen that require legislative action to protect the public and reputable business owners.

The first issue relates to the auctioning of abandoned vehicles. Recently, Texas Department of Transportation staff re-interpreted some provisions of Chapter 683, Transportation Code allowing law enforcement to only auction abandoned vehicles that have been towed and stored by the law enforcement agency. Under current law, abandoned vehicles are towed and stored by both public and private entities. When a private company tows or stores an abandoned vehicle the company notifies the owner of the vehicle and the appropriate law enforcement agency. If the abandoned vehicle is not claimed in a specified period of time the law enforcement agency takes custody of the vehicle and is responsible for disposal. The law enforcement agency may then auction off the abandoned vehicles. The process was established to not only insure adequate notification of the vehicle owner but also to ensure that auctions are properly conducted. Under the new Texas Department of Transportation interpretation, auctions will have to be conducted privately and the “buy beware.” HB 2630 restores the original intent of the law by clarifying that law enforcement agencies may auction abandoned vehicles towed and stored by both public and private entities.

The second issue relates to hearings contesting towing and storage of vehicles and fees. Recently, the attorney general has been asked to issue an opinion on the constitutionality of provisions in Chapter 685 of the Transportation Code relating to towing and storage hearings in municipal court where there is not an appeals process for matters. It is likely that the Attorney General will find the provisions unconstitutional, therefore, the HB 2630 provides that all such hearings be in Justice of the Peace courts where there is an appeals process.

And the final issue relates to loophole in statute allows vehicle storage facilities to charge fees unauthorized fees. Current the law specifies the amount that may be charged for storage and notification and prohibits “an additional fee that is similar to a notification, impoundment, or administrative fee.” Nevertheless, a creative storage facility operator has found a loophole in the law and is now accessing something called a “post-tow hookup fee.” This matter was brought before an administrative hearings officer at Texas Department of Transportation who ruled that such a fee can be charged because it is not “a notification, impoundment or administrative fee.” Perhaps the reason this fee did not fall under one of the established fee categories is that it is a bogus fee that does not correspond to a delivered service. HB 2630 closes the loophole by clearly stating that a facility may not charge any additional fee related to storage of the vehicle other than those fees set forth in statute.

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

CSHB 2630 amends Chapter 683, Transportation Code to clarify that law enforcement agencies may auction abandoned vehicles towed and stored by both public and private entities.

The committee substitute amends Chapter 685, Transportation Code by providing that justice courts have jurisdiction over contested towing and storage of vehicles are under the jurisdiction

of justice courts. The bill also includes an increase in the filing fees that a court may charge – from \$10 to \$20 – to cover the cost of additional notification. Also, the bill makes necessary conforming changes in Chapter 685, Transportation Code and Chapter 101, Government Code

CSHB 2630 amends Chapter 2303, Occupations Code by clarifying a provision in current law relating to newspaper notification if the vehicle storage facility operator is unable to determine the registered owner or lienholder of the vehicle. The substitute also prohibits a vehicle storage facility from charging any additional fee related to the towing or storage of the vehicle other than those fees set forth in statute.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

CSHB 2630 amends Section 683.034(a), Transportation Code by adding that a law enforcement agency has custody of a vehicle if the vehicle storage facility has met all requirements and the agency has received the proper report from the facility.

CSHB 2630 adds a new SECTION 9 that clarifies a provision in current law relating to newspaper notification if the vehicle storage facility operator is unable to determine the registered owner or lienholder of the vehicle.

CSHB 2630 adds amends Section 2303.155(f) by clarifying that a vehicles storage facility may not charge any fees not authorized in statute for towing as well as storage.