

By: Keel

H.B. No. 480

A BILL TO BE ENTITLED

AN ACT

relating to the towing and storage of certain vehicles; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 18, Code of Criminal Procedure, is amended by adding Article 18.23 to read as follows:

Art. 18.23. EXPENSES FOR MOTOR VEHICLE TOWED AND STORED FOR CERTAIN PURPOSES. (a) A law enforcement agency that directs the towing and storage of a motor vehicle for an evidentiary, examination, or related purpose shall pay the cost of the towing and storage.

(b) Subsection (a) applies whether the motor vehicle is taken to or stored on property that is:

(1) owned or operated by the law enforcement agency;

or

(2) owned or operated by another person who provides storage services to the law enforcement agency, including:

(A) a governmental entity; and

(B) a vehicle storage facility, as defined by Section 2303.002, Occupations Code.

(c) Subsection (a) does not require a law enforcement agency to pay the cost of:

(1) towing or storing a motor vehicle for a purpose that is not an evidentiary, examination, or related purpose,

1 including towing or storing a vehicle that has been abandoned,
2 illegally parked, or in an accident; or

3 (2) storing a motor vehicle after the date the law
4 enforcement agency authorizes the owner or operator of the property
5 to which the vehicle was taken or on which the vehicle is stored to
6 release the vehicle to the vehicle's owner.

7 (d) This subsection applies only to a motor vehicle taken to
8 or stored on property described by Subsection (b)(2). After a law
9 enforcement agency authorizes the release of a motor vehicle held
10 for an evidentiary, examination, or related purpose, the owner or
11 operator of the storage property may not refuse to release the
12 vehicle to the vehicle's owner because the law enforcement agency
13 has not paid the cost of the towing and storage.

14 (e) Chapter 685, Transportation Code, does not apply to a
15 motor vehicle directed by a law enforcement agency to be towed and
16 stored for an evidentiary, examination, or related purpose.

17 SECTION 2. Sections 2303.155(b) and (c), Occupations Code,
18 are amended to read as follows:

19 (b) The operator of a vehicle storage facility or
20 governmental vehicle storage facility may charge the owner of a
21 vehicle stored or parked at the facility:

22 (1) a notification fee set in a reasonable amount for
23 providing notice under this subchapter, including notice under
24 Section 2303.154(c);

25 (2) an impoundment fee of \$20 for any action that:

26 (A) is taken by or at the direction of the owner
27 or operator of the facility; and

1 (B) is necessary to preserve, protect, or service
2 a vehicle stored or parked at the facility;

3 (3) a daily storage fee of:

4 (A) not less than \$5 and not more than \$20 [~~\$15~~]
5 for each day or part of a day the vehicle is stored at the facility
6 if the vehicle is not longer than 25 feet; or

7 (B) \$35 [~~\$30~~] for each day or part of a day the
8 vehicle is stored at the facility if the vehicle is longer than 25
9 feet; and

10 (4) any fee that is required to be submitted to a law
11 enforcement agency, the agency's authorized agent, or a
12 governmental entity.

13 (c) A notification fee under Subsection (b) may not exceed
14 \$50 [~~\$32~~], except that if notice by publication is required by this
15 chapter and the cost of publication exceeds 50 percent of the
16 notification fee, the vehicle storage facility may recover the
17 additional amount of the cost of publication from the vehicle owner
18 or agent.

19 SECTION 3. Sections 643.206(a) and (c), Transportation
20 Code, are amended to read as follows:

21 (a) A towing company that makes a nonconsent tow shall tow
22 the vehicle to a vehicle storage facility that is operated by a
23 person who holds a license to operate the facility under Chapter
24 2303, Occupations Code, unless the towing company agrees to take
25 the vehicle to a location designated by the vehicle's owner.

26 (c) Except as provided by this chapter, Article 18.23, Code
27 of Criminal Procedure, or Chapter 2303, Occupations Code, a fee may

1 not be charged or collected without the prior written consent of the
2 vehicle owner or operator.

3 SECTION 4. Subchapter E, Chapter 643, Transportation Code,
4 is amended by adding Section 643.209 to read as follows:

5 Sec. 643.209. BREAKING INTO VEHICLE. (a) A towing company
6 may not break into or enter a vehicle or any part of a vehicle
7 without the consent of the vehicle's owner for the purposes of
8 making a nonconsent tow.

9 (b) For purposes of this section, "enter" means to intrude:

10 (1) any part of the body; or

11 (2) any physical object connected with the body.

12 SECTION 5. Section 684.012(a), Transportation Code, is
13 amended to read as follows:

14 (a) A parking facility owner may, without the consent of the
15 owner or operator of an unauthorized vehicle, cause the vehicle and
16 any property on or in the vehicle to be removed and stored at a
17 vehicle storage facility at the vehicle owner's or operator's
18 expense if:

19 (1) signs that comply with Subchapter C prohibiting
20 unauthorized vehicles are located on the parking facility at the
21 time of towing and for the preceding 24 hours and remain installed
22 at the time of towing;

23 (2) the owner or operator of the vehicle has received
24 actual notice from the parking facility owner that the vehicle will
25 be towed at the vehicle owner's or operator's expense if it is in or
26 not removed from an unauthorized space;

27 (3) the parking facility owner gives notice to the

1 owner or operator of the vehicle under Subsection (b); or

2 (4) the vehicle is:

3 (A) left in violation of Section 684.011 or
4 684.0125; or

5 (B) in or obstructing a portion of a paved
6 driveway or abutting public roadway used for entering or exiting
7 the facility and the removal is approved by a peace officer.

8 SECTION 6. Section 684.014, Transportation Code, is amended
9 by amending Subsection (a) and adding Subsection (d) to read as
10 follows:

11 (a) A towing company that is insured as provided by
12 Subsection (c) may, without the consent of an owner or operator of
13 an unauthorized vehicle, remove and store the vehicle at a vehicle
14 storage facility at the expense of the owner or operator of the
15 vehicle if:

16 (1) the towing company has received written
17 verification from the parking facility owner that:

18 (A) the parking facility owner has installed the
19 signs required by Section 684.012(a)(1); or

20 (B) the owner or operator received notice under
21 Section 684.012(a)(2) or the parking facility owner gave notice
22 complying with Section 684.012(a)(3); or

23 (2) the vehicle is:

24 (A) left in violation of Section 684.011; or

25 (B) in or obstructing a portion of a paved
26 driveway or abutting public roadway used for entering or exiting
27 the facility and the removal is approved by a peace officer.

1 (d) A towing company may remove and store a vehicle under
2 Subsection (a) only if the parking facility owner:

3 (1) requests that the towing company remove and store
4 the specific vehicle; or

5 (2) has a standing written agreement with the towing
6 company to enforce parking restrictions in the parking facility
7 from which the vehicle will be removed.

8 SECTION 7. Section 684.085, Transportation Code, is amended
9 to read as follows:

10 Sec. 684.085. VIOLATION OF CHAPTER[~~, FINE~~]. A violation of
11 this chapter is a Class B misdemeanor [~~punishable by a fine of not~~
12 ~~less than \$200 or more than \$500~~].

13 SECTION 8. (a) The change in law made by this Act to Section
14 684.085, Transportation Code, applies only to an offense committed
15 on or after the effective date of this Act. For purposes of this
16 section, an offense was committed before the effective date of this
17 Act if any element of the offense occurred before the effective
18 date.

19 (b) An offense committed before the effective date of this
20 Act is governed by the law in effect on the date the offense was
21 committed, and the former law is continued in effect for that
22 purpose.

23 SECTION 9. This Act takes effect September 1, 2005.