

By: Dutton

H.B. No. 1399

A BILL TO BE ENTITLED

AN ACT

relating to notice of a landlord's motor vehicle towing or parking rules and policies and to liability arising from certain actions of a towing service; providing a civil penalty.

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

SECTION 1. Section 92.013(a), Property Code, is amended to read as follows:

(a) A landlord shall give prior written notice to a tenant regarding a landlord rule or policy change that is not included in the lease agreement and that will affect any personal property owned by the tenant that is located outside the tenant's dwelling. A landlord shall provide to the tenant a copy of any applicable~~including any change in~~ vehicle towing or parking rules or policies of the landlord and any changes to those rules or policies as provided by Section 92.0131.

SECTION 2. Subchapter A, Chapter 92, Property Code, is amended by adding Section 92.0131 to read as follows:

Sec. 92.0131. NOTICE REGARDING VEHICLE TOWING OR PARKING RULES OR POLICIES. (a) If at the time of entering into a lease agreement, a landlord has vehicle towing or parking rules or policies that will apply to the tenant, the landlord shall provide to the tenant a copy of the rules or policies before the lease agreement is entered into. The copy of the rules or policies must be:

1 (1) signed by the tenant;
2 (2) contained in a lease that is signed by the tenant;
3 or
4 (3) contained in an attachment to a lease that is
5 signed by the tenant, if the attachment is expressly referred to as
6 rules or policies in the lease.

7 (b) If the rules or policies are contained in the lease or an
8 attachment to a lease, the title to the paragraph containing the
9 rules or policies must read "Parking" or "Parking Rules" and be
10 capitalized, underlined, or in bold print.

11 (c) If a landlord changes any of the landlord's vehicle
12 towing or parking rules or policies during the term of the lease,
13 the landlord shall provide written notice of the changes to the
14 tenant before the tenant is bound by the rule or policy changes.
15 The landlord has the burden of proving that the tenant received a
16 copy of the rule or policy changes. The landlord may satisfy that
17 burden of proof by providing evidence that the landlord:

18 (1) delivered the notice by certified mail, return
19 receipt requested, addressed to the tenant at the dwelling; or

20 (2) made a notation in the landlord's files of the
21 time, place, and method of providing the notice and the name of the
22 person who delivered the notice by:

23 (A) hand delivery to the tenant or any occupant
24 of the tenant's dwelling over the age of 16 years at the dwelling;

25 (B) facsimile to a facsimile number the tenant
26 provided to the landlord for the purpose of receiving notices; or

27 (C) taping the notice to the inside of the main

1 entry door of the dwelling.

2 (d) If the changes are made during the rental term, the
3 changes:

4 (1) must:

5 (A) apply to all of the landlord's tenants in the
6 same rental housing complex and be based on reasonable construction
7 necessity, safety or security of tenants, or respect for other
8 tenants' parking rights; or

9 (B) be consented to by the tenant in writing; and

10 (2) may not be effective sooner than the 14th day after
11 the date notice of the changes are delivered to the tenant unless
12 the changes are a result of a construction or utility emergency.

13 (e) A landlord who violates Subsection (a), (b), (c), or (d)
14 is liable for a civil penalty in the amount of \$100 plus any towing
15 or storage costs that the tenant incurs as a result of the tenant's
16 vehicle being towed. The nonprevailing party in a suit under this
17 section is liable to the prevailing party for reasonable attorney's
18 fees and court costs.

19 (f) A landlord is liable for any damage to a tenant's
20 vehicle resulting from the negligence of a towing service that
21 contracts with the landlord or the landlord's agent to remove
22 vehicles that are parked in violation of the landlord's rules and
23 policies if the towing company that caused the damage does not have
24 insurance that covers the damage.

25 SECTION 3. (a) The change in law made by Section
26 92.0131(a), Property Code, as added by this Act, applies only to a
27 lease agreement entered into or renewed on or after January 1, 2006.

1 A lease agreement entered into or renewed before January 1, 2006, is
2 governed by the law in effect when the lease was entered into or
3 renewed, and the former law is continued in effect for that purpose.

4 (b) The change in law made by Section 92.0131(f), Property
5 Code, as added by this Act, applies only to a negligent act that
6 occurs on or after January 1, 2006. A negligent act that occurs
7 before January 1, 2006, is governed by the law in effect when the
8 negligent act occurred, and the former law is continued in effect
9 for that purpose.

10 SECTION 4. This Act takes effect January 1, 2006.