

By: Talton

H.B. No. 2799

Substitute the following for H.B. No. 2799:

By: Bailey

C.S.H.B. No. 2799

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the removal of vehicles and property from a roadway in a
3 political subdivision and to the authority of a political
4 subdivision to establish a traffic incident management program.

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

6 SECTION 1. Section 542.203(a), Transportation Code, is
7 amended to read as follows:

8 (a) Unless permitted by an agreement between the local
9 authority and the Texas Department of Transportation under Section
10 221.002, a [A] local authority may not:

11 (1) erect or maintain a traffic-control device to
12 direct the traffic on a state highway, including a farm-to-market
13 or ranch-to-market road, to stop or yield before entering or
14 crossing an intersecting highway; or

15 (2) establish a transportation or mobility
16 enhancement program on a state highway, including a farm-to-market
17 or ranch-to-market road, such as a program by which the
18 municipality receives revenue for towing of vehicles located on the
19 highway [unless permitted by agreement between the local authority
20 and the Texas Department of Transportation under Section 221.002].

21 SECTION 2. Section 545.001, Transportation Code, is amended
22 to read as follows:

23 Sec. 545.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

24 (1) "Pass" [~~"pass"~~] or "passing" used in reference

1 to a vehicle means to overtake and proceed past another vehicle
2 moving in the same direction as the passing vehicle or to attempt
3 that maneuver.

4 (2) "Safe drop location" means a location that is well
5 lighted, has a public telephone, and has public restrooms.

6 (3) "Towing company" means an individual,
7 corporation, partnership, or other association engaged in the
8 business of towing vehicles on a highway for compensation or with
9 the expectation of compensation for the towing or storage of the
10 vehicles and includes the owner, operator, employee, or agent of a
11 towing company.

12 (4) "Vehicle storage facility" means a garage, parking
13 lot, or other facility that is operated by a person who holds a
14 license issued under Chapter 2303, Occupations Code, to operate the
15 garage, parking lot, or other facility.

16 SECTION 3. Sections 545.305(a) and (b), Transportation
17 Code, are amended to read as follows:

18 (a) A peace officer listed in [~~under~~] Article 2.12, Code of
19 Criminal Procedure, or a license and weight inspector of the
20 department may remove or require the operator or a person in charge
21 of a vehicle to move a vehicle from a highway if the vehicle:

22 (1) is unattended on a bridge, viaduct, or causeway or
23 in a tube or tunnel and the vehicle is obstructing traffic;

24 (2) is unlawfully parked and blocking the entrance to
25 a private driveway;

26 (3) has been reported as stolen;

27 (4) is identified as having been stolen in a warrant

1 issued on the filing of a complaint;

2 (5) is unattended and the officer has reasonable
3 grounds to believe that the vehicle has been abandoned for longer
4 than 48 hours;

5 (6) is disabled so that normal operation is impossible
6 or impractical and the owner or person in charge of the vehicle is:

7 (A) incapacitated and unable to provide for the
8 vehicle's removal or custody; or

9 (B) not in the immediate vicinity of the vehicle;

10 (7) is disabled so that normal operation is impossible
11 or impractical and the owner or person in charge of the vehicle does
12 not designate a particular towing or vehicle storage facility
13 [~~company~~];

14 (8) is operated by a person an officer arrests for an
15 alleged offense and the officer is required by law to take the
16 person into custody; or

17 (9) is, in the opinion of the officer, a hazard,
18 interferes with a normal function of a governmental agency, or
19 because of a catastrophe, emergency, or unusual circumstance is
20 imperiled.

21 (b) An officer acting under Subsection (a) may require that
22 the vehicle be taken to:

23 (1) a safe drop location [~~the nearest garage or other~~
24 ~~place of safety~~];

25 (2) a garage designated or maintained by the
26 governmental agency that employs the officer; [~~or~~]

27 (3) a vehicle storage facility; or

1 (4) a position off the paved or main traveled part of
2 the highway.

3 SECTION 4. Section 545.3051(d), Transportation Code, is
4 amended to read as follows:

5 (d) The owner and any carrier of personal property removed
6 under this section shall reimburse the authority, ~~[or]~~ law
7 enforcement agency, or towing company for any reasonable cost of
8 removal and disposition of the property.

9 SECTION 5. Subchapter G, Chapter 545, Transportation Code,
10 is amended by adding Section 545.309 to read as follows:

11 Sec. 545.309. TRAFFIC INCIDENT MANAGEMENT PROGRAM. (a) In
12 this section, "traffic incident" means a nonrecurrent event that
13 causes a temporary reduction in roadway capacity or an abnormal
14 increase in traffic demand on a roadway or right-of-way.

15 (b) A political subdivision may establish a traffic
16 incident management program to provide for the safe and efficient
17 removal of personal property from a roadway or right-of-way in the
18 political subdivision.

19 (c) As part of its traffic incident management program, a
20 political subdivision:

21 (1) may enter into agreements with towing companies to
22 provide traffic incident management towing;

23 (2) may not impose a fee or charge that exceeds two
24 percent of the annual gross receipts for traffic incident
25 management towing; and

26 (3) shall apply all revenue generated by any fees or
27 charges assessed under Subdivision (2) to the traffic incident

1 management program.

2 (d) A political subdivision may pay a towing company for
3 traffic incident management towing and storage. If a political
4 subdivision does not pay the towing company, the owner of a vehicle
5 that is towed or stored under this section is liable for all
6 reasonable towing and storage fees incurred.

7 (e) In connection with its traffic incident management
8 program, a political subdivision shall comply with Section 643.204
9 and ensure that fees collected from the owner or operator of a
10 vehicle involved in a traffic incident for services provided by a
11 towing company do not exceed the allowable amounts established by
12 the political subdivision under that section.

13 (f) A towing company that provides traffic incident
14 management towing:

15 (1) shall maintain insurance as required by Chapter
16 643 and comply with each fee provision in that chapter;

17 (2) may not use a driver who:

18 (A) is not certified by the National Drivers
19 Certification Program of the Towing and Recovery Association of
20 America for the size tow truck to be driven; or

21 (B) has been convicted of a felony in the
22 preceding seven years;

23 (3) shall provide annual training for drivers in
24 incident practices; and

25 (4) shall provide appropriate equipment for the towing
26 and recovery of light duty or heavy duty vehicles in accordance with
27 the vehicle manufacturer's towing guidelines.

1 (g) To ensure compliance with Subsection (f)(2), a towing
2 company shall verify the criminal record of each driver through the
3 criminal history record information maintained by the Department of
4 Public Safety. A political subdivision may impose stricter
5 limitations on the employment of drivers with felony convictions
6 than the limitation established by this section.

7 (h) A vehicle that is towed in connection with a traffic
8 incident management program must be taken to:

9 (1) a safe drop location;

10 (2) a garage designated or maintained by the political
11 subdivision;

12 (3) a vehicle storage facility; or

13 (4) a position off the paved or main traveled part of
14 the roadway or right-of-way.

15 (i) A traffic incident management program must comply with
16 Chapter 15, Business & Commerce Code.

17 SECTION 6. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2005.