

By: Talton

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 502.003, Transportation Code, is amended
7 by amending Subsection (c) and adding Subsection (f) to read as
8 follows:

9 (c) A fee or charge under Subsection (b) or (f)(1) may not
10 exceed two percent of the annual gross receipts from the vehicle.

11 (f) This section does not:

12 (1) affect the authority of a political subdivision to
13 impose any type of fee or charge on a towing company, as defined by
14 Section 545.001, that is related to the towing of a motor vehicle at
15 the request of a peace officer or an authorized employee of the
16 political subdivision; or

17 (2) impair the payment provisions of an agreement or
18 franchise between a political subdivision and a towing company, as
19 defined by Section 545.001, that is related to the towing of motor
20 vehicles owned or operated by the political subdivision.

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 non-recurrent 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 may:

21 (1) enter into an agreement with one or more towing
22 companies to provide traffic incident management towing; and

23 (2) impose fees as authorized by Section 502.003 that
24 may be applied only to the traffic incident management program.

25 (d) A political subdivision may pay a towing company for
26 traffic incident management towing and storage. If a political
27 subdivision does not pay the towing company, the owner of a vehicle

1 that is towed or stored under this section is liable for all
2 reasonable towing and storage fees incurred.

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

9 (f) A towing company that provides traffic incident
10 management towing:

11 (1) shall maintain insurance as required by Chapter
12 643 and comply with each fee provision in that chapter;

13 (2) may not use a driver who:

14 (A) is not certified by the National Drivers
15 Certification Program of the Towing & Recovery Association of
16 America for the size tow truck to be driven; or

17 (B) has been convicted of a felony in the
18 preceding seven years;

19 (3) shall provide annual training for drivers in
20 incident practices; and

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

24 (g) To ensure compliance with Subsection (f)(2), a towing
25 company shall verify the criminal record of each driver through the
26 criminal history record information maintained by the department.

27 A political subdivision may impose stricter limitations on the

1 employment of drivers with felony convictions than the limitation
2 established by this section.

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

5 (1) a safe drop location;

6 (2) a garage designated or maintained by the political
7 subdivision;

8 (3) a vehicle storage facility; or

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

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