

By: Nelson

S.B. No. 1332

A BILL TO BE ENTITLED

AN ACT

relating to the impoundment and forfeiture of certain motor vehicles operated without financial responsibility.

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

SECTION 1. Subchapter C, Chapter 601, Transportation Code, is amended by adding Section 601.0535 to read as follows:

Sec. 601.0535. IMPOUNDMENT AND FORFEITURE OF CERTAIN MOTOR VEHICLES. (a) This section applies only to a motor vehicle operated in violation of Section 601.051 by a person who at the time is in violation of Section 521.021 or 521.457.

(b) The peace officer who takes a person into custody for the violations described in Subsection (a) shall require that the vehicle being operated by the person be impounded.

(c) A peace officer who requires the impoundment of a motor vehicle under this section shall issue the person a written explanation, on a form designed by the law enforcement agency that employs the peace officer, informing the person:

(1) that if the person is convicted of both violations for which the person was taken into custody, the motor vehicle will be subject to forfeiture;

(2) that if the person is not convicted of both violations, the owner of the vehicle may recover the vehicle from the law enforcement agency; and

(3) as to how an eligible owner of the vehicle may

1 recover the motor vehicle from the law enforcement agency.

2 (d) The law enforcement agency that impounds a motor vehicle
3 under this section shall also send notice of the impoundment to the
4 registered owner of the vehicle and the primary lienholder of the
5 vehicle, if any, as shown in the motor vehicle registration records
6 of the Texas Department of Transportation or, if the vehicle is
7 registered in another state, the analogous agency of that state.

8 (e) Notice under Subsection (d) must:

9 (1) be in writing on a form designed by the law
10 enforcement agency that impounded the vehicle;

11 (2) explain how and where the owner or lienholder of
12 the vehicle may recover the vehicle from the law enforcement
13 agency; and

14 (3) be mailed to the registered owner and any primary
15 lienholder of the vehicle at the addresses shown in the applicable
16 motor vehicle registration records not later than the 14th day
17 after the date the vehicle is impounded.

18 (f) The law enforcement agency that impounds a motor vehicle
19 under this section may release the vehicle to the owner of the
20 vehicle only if the owner:

21 (1) provides to the law enforcement agency proof that
22 the person described by Subsection (a) was not convicted of at least
23 one of the violations that required the vehicle's impoundment;

24 (2) provides evidence consistent with:

25 (A) Section 601.053, showing that the vehicle is
26 in compliance with Section 601.051; or

27 (B) Section 601.052, showing that the vehicle is

1 exempt from the requirements of Section 601.051; and

2 (3) pays for the costs of the impoundment and the
3 storage of the vehicle, at the rate of \$15 per day.

4 (g) The law enforcement agency that impounds a motor vehicle
5 under this section shall release the vehicle to the primary
6 lienholder of the vehicle if the lienholder or an agent of the
7 lienholder:

8 (1) submits to the agency an affidavit stating that
9 the lienholder is entitled to:

10 (A) repossess the vehicle from the debtor; and

11 (B) take possession of the vehicle from the law
12 enforcement agency; and

13 (2) pays for the cost of the impoundment.

14 (h) If a person described by Subsection (a) is convicted of
15 both offenses and the vehicle was not previously released to a
16 primary lienholder under Subsection (g), an attorney for the law
17 enforcement agency that impounded the motor vehicle shall commence
18 proceedings in a district court to forfeit the vehicle to the law
19 enforcement agency.

20 (i) After notice to the registered owner and any primary
21 lienholder of the motor vehicle, if it is shown by a preponderance
22 of the evidence in a hearing before the court that the vehicle is
23 subject to forfeiture under this section, the court shall forfeit
24 the vehicle to the law enforcement agency, except as provided by
25 Subsection (j).

26 (j) If a primary lienholder shows by a preponderance of the
27 evidence that the lienholder holds a security interest in the

1 vehicle that is greater than or equal to the present value of the
2 vehicle and pays all costs associated with the vehicle's
3 impoundment, including storage charges at a rate of \$15 per day,
4 plus the court costs in the forfeiture proceedings, the court shall
5 order the vehicle released to the primary lienholder.

6 (k) A motor vehicle forfeited under this section may be sold
7 at a public auction by the law enforcement agency. Proceeds of the
8 sale shall be paid to any primary lienholder to the extent of the
9 lienholder's security interest in the vehicle. The balance, if
10 any, shall be deposited in the municipal treasury and may be spent
11 only for law enforcement purposes. The Texas Department of
12 Transportation shall issue a certificate of title to a person who
13 purchases a vehicle under this subsection and who complies with
14 Chapter 501.

15 SECTION 2. Section 601.0535, Transportation Code, as added
16 by this Act, applies only to a motor vehicle that is operated in
17 violation of Section 601.051 of that code on or after September 1,
18 2005.

19 SECTION 3. This Act takes effect September 1, 2005.