

By: Carona

S.B. No. 1396

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to procedures regarding the removal and storage of  
3 vehicles.

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

5 SECTION 1. Section 683.011(b), Transportation Code, is  
6 amended to read as follows:

7 (b) A law enforcement agency may use agency personnel,  
8 equipment, and facilities or contract for other personnel,  
9 equipment, and facilities to remove, preserve, ~~and~~ store, send  
10 notice regarding, and dispose of an abandoned motor vehicle,  
11 watercraft, or outboard motor taken into custody by the agency  
12 under this subchapter.

13 SECTION 2. Section 683.031(c), Transportation Code, is  
14 amended to read as follows:

15 (c) The garagekeeper shall report the abandonment of the  
16 motor vehicle to a law enforcement agency with jurisdiction where  
17 the vehicle is located or to the Department of Public Safety and  
18 shall pay a \$10 [~~\$5~~] fee to be used by the law enforcement agency for  
19 the cost of the notice required by this subchapter or other cost  
20 incurred in disposing of the vehicle. A fee paid to the Department  
21 of Public Safety shall be used to administer this chapter.

22 SECTION 3. Sections 683.034(a), (b), and (e),  
23 Transportation Code, are amended to read as follows:

24 (a) A law enforcement agency shall take into custody an

1 abandoned vehicle left in a storage facility that has not been  
2 claimed in the period provided by the notice under Section 683.012.  
3 In this section, "custody" means physical custody of the vehicle or  
4 notice to the storage facility that the law enforcement agency  
5 intends to dispose of the vehicle under this section.

6 (b) The law enforcement agency may use the vehicle as  
7 authorized by Section 683.016 or sell the vehicle at auction as  
8 provided by Section 683.014. If a vehicle is sold, the proceeds of  
9 the sale shall first be applied to a garagekeeper's charges for  
10 providing notice regarding the vehicle and for service, towing,  
11 impoundment, storage, and repair of the vehicle.

12 (e) If the law enforcement agency does not take the vehicle  
13 into custody before the 31st day after the date the vehicle was  
14 reported abandoned under Section 683.031 [~~notice is sent under~~  
15 ~~Section 683.012~~]:

16 (1) the law enforcement agency may not take the  
17 vehicle into custody; and

18 (2) the storage facility may dispose of the vehicle  
19 under:

20 (A) Chapter 70, Property Code, except that notice  
21 under Section 683.012 satisfies the notice requirements of that  
22 chapter; or

23 (B) Chapter 2303, Occupations Code, if [~~+~~  
24 [~~(i)~~] the storage facility is a vehicle  
25 storage facility [~~, and~~  
26 [~~(ii)~~ the vehicle is an abandoned nuisance  
27 vehicle].

1 SECTION 4. Section 685.004, Transportation Code, is amended  
2 to read as follows:

3 Sec. 685.004. JURISDICTION. [~~a~~] A hearing under this  
4 chapter shall be in the justice court having jurisdiction in the  
5 precinct in which the vehicle storage facility is located [~~is~~  
6 ~~before the justice of the peace or a magistrate in whose~~  
7 ~~jurisdiction is the location from which the vehicle was removed,~~  
8 ~~except as provided by Subsection (b)].~~

9 [~~(b) In a municipality with a population of 1.9 million or~~  
10 ~~more, a hearing under this chapter is before a judge of a municipal~~  
11 ~~court in whose jurisdiction is the location from which the vehicle~~  
12 ~~was removed.]~~

13 SECTION 5. Section 685.006, Transportation Code, is amended  
14 to read as follows:

15 Sec. 685.006. CONTENTS OF NOTICE. [~~a~~] The notice under  
16 Section 685.005 must include:

- 17 (1) a statement of:
- 18 (A) the person's right to submit a request within  
19 14 days for a court hearing to determine whether probable cause  
20 existed to remove the vehicle;
- 21 (B) the information that a request for a hearing  
22 must contain; and
- 23 (C) any filing fee for the hearing;
- 24 (2) the name, address, and telephone number of the  
25 towing company that removed the vehicle;
- 26 (3) the name, address, and telephone number of the  
27 vehicle storage facility in which the vehicle was placed; [~~and~~]

1 (4) the name, address, and telephone number of the  
2 person, property owner, or law enforcement agency that authorized  
3 the removal of the vehicle; and

4 (5) the name, address, and telephone number of the  
5 justice court having jurisdiction in the precinct in which the  
6 vehicle storage facility is located [~~one or more of the appropriate~~  
7 ~~magistrates as determined under Subsection (b)~~].

8 [~~(b) The notice must include the name, address, and~~  
9 ~~telephone number of:~~

10 [~~(1) the municipal court of the municipality, if the~~  
11 ~~towing company that removed the vehicle or the vehicle storage~~  
12 ~~facility in which the vehicle was placed is located in a~~  
13 ~~municipality; or~~

14 [~~(2) the justice of the peace of the precinct in which~~  
15 ~~the towing company or the vehicle storage facility is located, if~~  
16 ~~the towing company that removed the vehicle or the vehicle storage~~  
17 ~~facility in which the vehicle was placed is not located in a~~  
18 ~~municipality.~~]

19 SECTION 6. Section 685.008, Transportation Code, is amended  
20 to read as follows:

21 Sec. 685.008. FILING FEE AUTHORIZED. The court may charge  
22 a filing fee of \$20 [~~\$10~~] for a hearing under this chapter.

23 SECTION 7. Section 685.009, Transportation Code, is amended  
24 by amending Subsections (a) and (b) and adding Subsection (b-1) to  
25 read as follows:

26 (a) A hearing under this chapter shall be held before the  
27 10th [~~seventh~~] working day after the date the court receives the

1 request for the hearing.

2 (b) The court shall notify the person who requested the  
3 hearing and the person or law enforcement agency that authorized  
4 the removal of the vehicle of the date, time, and place of the  
5 hearing by registered or certified mail. The notice of the hearing  
6 to the person or law enforcement agency that authorized the removal  
7 of the vehicle shall include a copy of the request for hearing.

8 (b-1) At a hearing under this section:

9 (1) the burden of proof is on the person who requested  
10 the hearing; and

11 (2) hearsay evidence is admissible if it is considered  
12 otherwise reliable by the justice of the peace.

13 SECTION 8. Chapter 685, Transportation Code, is amended by  
14 adding Section 685.010 to read as follows:

15 Sec. 685.010. APPEAL. An appeal from a hearing under this  
16 chapter is governed by the rules of procedure applicable to civil  
17 cases in justice court, except that no appeal bond may be required  
18 by the court.

19 SECTION 9. Section 2303.154, Occupations Code, is amended  
20 by adding Subsection (a-1) to read as follows:

21 (a-1) If a vehicle is not claimed by a person permitted to  
22 claim the vehicle before the 10th day after the date notice is  
23 mailed or published under Section 2303.151 or 2303.152, the  
24 operator of the vehicle storage facility shall consider the vehicle  
25 to be abandoned and send notice of abandonment to a law enforcement  
26 agency under Chapter 683, Transportation Code.

27 SECTION 10. Section 2303.155(f), Occupations Code, is

1 amended to read as follows:

2 (f) The operator of a vehicle storage facility or  
3 governmental vehicle storage facility may not charge any [~~an~~  
4 additional fee related to storage of the vehicle other than those  
5 fees set forth in this section [~~that is similar to a notification,~~  
6 ~~impoundment, or administrative fee~~].

7 SECTION 11. Section 101.141(a), Government Code, is amended  
8 to read as follows:

9 (a) A clerk of a justice court shall collect fees and costs  
10 as follows:

11 (1) additional court cost in certain civil cases to  
12 establish and maintain an alternative dispute resolution system, if  
13 authorized by the commissioners court of a county with a population  
14 of at least 2.5 million (Sec. 152.005, Civil Practice and Remedies  
15 Code) . . . not to exceed \$3;

16 (2) additional filing fees:

17 (A) to fund Dallas County civil court facilities  
18 (Sec. 51.705, Government Code) . . . not more than \$15; and

19 (B) for filing any civil action or proceeding  
20 requiring a filing fee, including an appeal, and on the filing of  
21 any counterclaim, cross-action, intervention, interpleader, or  
22 third-party action requiring a filing fee, to fund civil legal  
23 services for the indigent (Sec. 133.153, Local Government  
24 Code) . . . \$2;

25 (3) for filing a suit in Comal County (Sec. 152.0522,  
26 Human Resources Code) . . . \$1.50; and

27 (4) fee for hearing on probable cause for removal of a

1 vehicle and placement in a storage facility if assessed by the court  
2 (Sec. 685.008, Transportation Code) . . . \$20 [~~\$10~~].

3 SECTION 12. Section 101.161, Government Code, is amended to  
4 read as follows:

5 Sec. 101.161. MUNICIPAL COURT FEES AND COSTS. The clerk of  
6 a municipal court may collect a fee for a hearing on probable cause  
7 for removal of a vehicle and placement in a storage facility if  
8 assessed by the court (Sec. 685.008, Transportation Code) . . . \$20  
9 [~~\$10~~].

10 SECTION 13. Section 101.181, Government Code, is amended to  
11 read as follows:

12 Sec. 101.181. MUNICIPAL COURTS OF RECORD FEES AND COSTS.  
13 The clerk of a municipal court of record shall collect the following  
14 fees and costs:

15 (1) from an appellant, a transcript preparation fee  
16 (Sec. 30.00014, Government Code) . . . \$25; and

17 (2) from an appellant in the City of El Paso, an  
18 appellate court docket fee (Sec. 30.00147, Government Code) . . .  
19 \$25 [~~, and~~

20 [~~(3) fee for hearing on probable cause for removal of~~  
21 ~~vehicle and placement in a storage facility if assessed by the court~~  
22 ~~(Sec. 685.008, Transportation Code) . . . \$10].~~

23 SECTION 14. The changes in law made by this Act apply only  
24 to procedures for the removal of a vehicle to a vehicle storage  
25 facility or the seizure of a vehicle on or after the effective date  
26 of this Act. The removal or seizure of a vehicle before the  
27 effective date of this Act is governed by the law in effect

1 immediately before the effective date of this Act, and the former  
2 law is continued in effect for that purpose.

3 SECTION 15. This Act takes effect September 1, 2005.