

BILL ANALYSIS

Senate Research Center

S.B. 543
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Transportation & Homeland Security
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Property Code provides for possessory liens and for the sale of certain motor vehicles, motorboats, vessels, and outboard motors on which a lien is recorded. Under current law, mechanics' liens are superior to the liens of dealers who have true ownership of the property. Current law does not require the filing of a work order and does not require a mechanic to divulge certain information, including the physical location of the property. There have been instances where a number of fraudulent liens are filed, dealers are not notified of the liens, and the property is sold as a way of transferring title. Sometimes no work has been done and the property is sold for profit.

S.B. 543 amends current law relating to certain possessory liens and provides a criminal penalty.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Transportation Commission in SECTION 3 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 70.003(c), Property Code, to provide that a garageman with whom a motor vehicle, motorboat, vessel, or outboard motor is left for care has a lien on the motor vehicle, motorboat, vessel, or outboard motor for the amount of the charges for the care, including reasonable charges for towing the motor vehicle, motorboat, vessel, or outboard motor to the garageman's place of business and excluding charges for repairs.

SECTION 2. Amends Section 70.006, Property Code, by amending Subsection (a) and adding Subsections (b-1), (b-2), (b-3), (g), and (h), as follows:

(a) Requires a holder of a lien under this subchapter or Chapter 59 (Self-Service Storage Facility Liens) on a motor vehicle subject to Chapter 501 (Certificate of Title Act), Transportation Code, or on a motorboat, vessel, or outboard motor for which a certificate of title is required under Subchapter B (Identification of Vessels; Required Numbering), Chapter 31 (Water Safety), Parks and Wildlife Code, as amended, who retains possession of the motor vehicle, motorboat, vessel, or outboard motor, to give written notice to the owner and each holder of a lien recorded on the certificate of title not later than the 30th day after the date on which the charges accrue. Requires a holder of a possessory lien on a motor vehicle under Section 70.001 (Worker's Lien), other than a person licensed as a franchised dealer under Chapter 2301 (Sale or Lease of Motor Vehicles), Occupations Code, to file a copy of the notice and all information required by this section with the county tax assessor-collector's office in the county in which the repairs were made with an administrative fee of \$25 payable to the county tax assessor-collector. Deletes existing text requiring a holder of a lien a holder of a lien who retains possession of the motor vehicle, motorboat, vessel, or outboard motor for 30 days after the day that the charges accrue, to give written notice to the owner and each holder of a lien recorded on the certificate of title not later than the 30th day after the date on which the charges accrue.

(b-1) Requires a holder of a possessory lien on a motor vehicle under Section 70.001, other than a person licensed as a franchised dealer under Chapter 2301, Occupations Code, who is required to give notice to a lienholder of record under this section to include in the notice certain information.

(b-2) Provides that, if the holder of a possessory lien required to give notice in accordance with Subsection (b-1) does not comply with that subsection, a lien recorded on the certificate of title of the motor vehicle is superior to the possessory lienholder's lien.

(b-3) Provides that a person commits an offense if the person knowingly provides false or misleading information in a notice required by this section. Provides that an offense under this section is a Class B misdemeanor.

(g) Requires a holder of a possessory lien on a motor vehicle under Section 70.001, other than a person licensed as a franchised dealer under Chapter 2301, Occupations Code, after providing notice in accordance with this section, on request, not later than the 30th day after the date on which the charges accrue, to make commercially reasonable efforts to allow an owner and each lienholder of record to inspect or arrange an inspection of the motor vehicle by a qualified professional to verify that the repairs were made.

(h) Requires the county tax assessor-collector, not later than the 10th day after the date the county tax assessor-collector received notice under this section, to provide a copy of the notice to the owner of the motor vehicle and each holder of a lien recorded on the certificate of title of the motor vehicle. Requires the county tax assessor-collector, except as provided by this subsection, to provide the notice required by this section in the same manner as a holder of a lien is required to provide a notice under this section.

SECTION 3. Requires the Texas Transportation Commission to adopt rules necessary to carry out the Texas Department of Transportation's duties under Section 70.003 and 70.006, Property Code, as amended by this Act.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2009.