

By: Harless

H.B. No. 4124

A BILL TO BE ENTITLED

AN ACT

relating to certain possessory liens on certain motor vehicles,  
motorboats, vessels, or outboard motors.

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

SECTION 1. Subchapter A, Chapter 70, Section 70.001,  
Property Code, is amended to read as follows:

Sec. 70.001. WORKER'S LIEN. (a) A worker in this state who  
by labor repairs an article, including a vehicle, motorboat,  
vessel, or outboard motor, may retain possession of the article  
until:

(1) the amount due under the contract for the repairs  
is paid; or

(2) if no amount is specified by contract, the  
reasonable and usual compensation is paid.

(b) If a worker relinquishes possession of a motor vehicle,  
motorboat, vessel, or outboard motor in return for a check, money  
order, or a credit card transaction on which payment is stopped, has  
been dishonored because of insufficient funds, no funds or because  
the drawer or maker of the order or the credit card holder has no  
account or the account upon which it was drawn or the credit card  
account has been closed, the lien provided by this section  
continues to exist and the worker is entitled to possession of the  
vehicle, motorboat, vessel, or outboard motor until the amount due  
is paid, unless the vehicle, motorboat, vessel, or outboard motor

1 is possessed by a person who became a bona fide purchaser of the  
2 vehicle after a stop payment order was made. A person entitled to  
3 possession of property under this subsection is entitled to take  
4 possession thereof in accordance with the provisions of Section  
5 9.609, Business & Commerce Code.

6 (c) A worker may take possession of an article under  
7 Subsection (b) only if the person obligated under the repair  
8 contract has signed a notice stating that the article may be subject  
9 to repossession under this section. A notice under this subsection  
10 must be:

- 11 (1) separate from the written repair contract; or  
12 (2) printed on the written repair contract, credit  
13 agreement, or other document in type that is boldfaced,  
14 capitalized, underlined, or otherwise set out from surrounding  
15 written material so as to be conspicuous with a separate signature  
16 line.

17 (d) A worker who takes possession of an article under  
18 Subsection (b) may require a person obligated under the repair  
19 contract to pay the costs of repossession as a condition of  
20 reclaiming the article only to the extent of the reasonable fair  
21 market value of the services required to take possession of the  
22 article. For the purpose of this subsection, charges represent the  
23 fair market value of the services required to take possession of an  
24 article if the charges represent the actual cost incurred by the  
25 worker in taking possession of the article.

26 (e) A worker may not transfer to a third party, and a person  
27 who performs repossession services may not accept, a check, money

1 order, or credit card transaction that is received as payment for  
2 repair of an article and that is returned to the worker because of  
3 insufficient funds or no funds, because the drawer or maker of the  
4 check or money order or the credit card holder has no account, or  
5 because the account on which the check or money order is drawn or  
6 the credit card account has been closed.

7 (f) A person commits an offense if the person transfers or  
8 accepts a check, money order, or credit card transaction in  
9 violation of Subsection (e). An offense under this subsection is a  
10 Class B misdemeanor.

11 (g) A motor vehicle that is repossessed under this section  
12 shall be promptly delivered to the location where the repair was  
13 performed or a vehicle storage facility licensed under Chapter  
14 2303, Occupations Code. The motor vehicle must remain at the  
15 repair location or a licensed vehicle storage facility at all times  
16 until the motor vehicle is lawfully returned to the motor vehicle's  
17 owner or a lienholder or is disposed of as provided by this  
18 subchapter.

19 (h) A prior security interest has priority over a possessory  
20 lien created under this Section.

21 SECTION 2. This Act takes effect September 1, 2009.