

By: Carona

S.B. No. 543

Substitute the following for S.B. No. 543:

By: Geren

C.S.S.B. No. 543

A BILL TO BE ENTITLED

AN ACT

relating to certain possessory liens; providing a criminal penalty.

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

SECTION 1. Subsection (c), Section 70.003, Property Code, is amended to read as follows:

(c) 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. Section 70.006, Property Code, is amended by amending Subsection (a) and adding Subsections (b-1), (b-2), (b-3), (g), and (h) to read as follows:

(a) A holder of alien under this subchapter or Chapter 59 on a motor vehicle subject to Chapter 501, Transportation Code, or on a motorboat, vessel, or outboard motor for which a certificate of title is required under Subchapter B, Chapter 31, Parks and Wildlife Code, as amended, who retains possession of the motor vehicle, motorboat, vessel, or outboard motor [~~for 30 days after the day that the charges accrue~~] shall, not later than the 30th day after the date on which the charges accrue, give written notice to the owner and each holder of a lien recorded on the certificate of title. A holder of a possessory lien on a motor vehicle under

1 Section 70.001, other than a person licensed as a franchised dealer  
2 under Chapter 2301, Occupations Code, shall file a copy of the  
3 notice and all information required by this section with the county  
4 tax assessor-collector's office in the county in which the repairs  
5 were made with an administrative fee of \$25 payable to the county  
6 tax assessor-collector. If the motor vehicle, motorboat, vessel,  
7 or outboard motor is registered outside this state, the holder of a  
8 lien under this subchapter who retains possession during that  
9 period shall give notice to the last known registered owner and each  
10 lienholder of record.

11 (b-1) A holder of a possessory lien on a motor vehicle under  
12 Section 70.001, other than a person licensed as a franchised dealer  
13 under Chapter 2301, Occupations Code, who is required to give  
14 notice to a lienholder of record under this section must include in  
15 the notice:

16 (1) the physical address of the real property at which  
17 the repairs to the motor vehicle were made;

18 (2) the legal name of the person that holds the  
19 possessory lien for which the notice is required;

20 (3) the taxpayer identification number or employer  
21 identification number, as applicable, of the person that holds the  
22 possessory lien for which the notice is required; and

23 (4) a signed copy of the work order authorizing the  
24 repairs on the motor vehicle.

25 (b-2) If the holder of a possessory lien required to give  
26 notice in accordance with Subsection (b-1) does not comply with  
27 that subsection, a lien recorded on the certificate of title of the

1 motor vehicle is superior to the possessory lienholder's lien.

2 (b-3) A person commits an offense if the person knowingly  
3 provides false or misleading information in a notice required by  
4 this section. An offense under this subsection is a Class B  
5 misdemeanor.

6 (g) After providing notice in accordance with this section,  
7 a holder of a possessory lien on a motor vehicle under Section  
8 70.001, other than a person licensed as a franchised dealer under  
9 Chapter 2301, Occupations Code, shall, on request, not later than  
10 the 30th day after the date on which the charges accrue, make  
11 commercially reasonable efforts to allow an owner and each  
12 lienholder of record to inspect or arrange an inspection of the  
13 motor vehicle by a qualified professional to verify that the  
14 repairs were made.

15 (h) Not later than the 10th day after the date the county tax  
16 assessor-collector receives notice under this section, the county  
17 tax assessor-collector shall provide a copy of the notice to the  
18 owner of the motor vehicle and each holder of a lien recorded on the  
19 certificate of title of the motor vehicle. Except as provided by  
20 this subsection, the county tax assessor-collector shall provide  
21 the notice required by this section in the same manner as a holder  
22 of a lien is required to provide a notice under this section.

23 SECTION 3. The Texas Transportation Commission shall adopt  
24 rules necessary to carry out the Texas Department of  
25 Transportation's duties under Sections 70.003 and 70.006, Property  
26 Code, as amended by this Act.

27 SECTION 4. The changes in law made by this Act apply only to

1 a possessory lien on a motor vehicle, motorboat, vessel, or  
2 outboard motor the possession of which is obtained on or after the  
3 effective date of this Act. A possessory lien on a motor vehicle,  
4 motorboat, vessel, or outboard motor the possession of which was  
5 obtained before that date is governed by the law in effect at the  
6 time possession was obtained, and the former law is continued in  
7 effect for that purpose.

8 SECTION 5. This Act takes effect September 1, 2009.