

By: Kuempel

H.B. No. 787

Substitute the following for H.B. No. 787:

By: Davis of Dallas

C.S.H.B. No. 787

A BILL TO BE ENTITLED

AN ACT

relating to abandoned, wrecked, dismantled, discarded, and inoperable aircraft and vessels.

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

SECTION 1. Section 31.003, Parks and Wildlife Code, is amended by adding Subdivision (17) to read as follows:

(17) "Abandoned vessel or outboard motor" means a vessel or outboard motor that has remained on private property without the consent of the owner or person in charge of the property for more than seven consecutive days.

SECTION 2. Subchapter B-1, Chapter 31, Parks and Wildlife Code, is amended by adding Section 31.0466 to read as follows:

Sec. 31.0466. TITLE FOR ABANDONED VESSEL; BOND. (a) A person may apply for a certificate of title for an abandoned vessel or outboard motor found on the person's property.

(b) The department may cancel the certificate for the abandoned vessel or outboard motor and issue a new certificate to the applicant if the applicant:

(1) executes and files a bond with the department:

(A) in the form prescribed by the department;

(B) issued by a person authorized to act as a surety business in this state;

(C) in an amount equal to 1-1/2 times the value of the abandoned vessel or outboard motor as determined by the

1 department; and

2 (D) conditioned to indemnify all prior owners and
3 lienholders and all subsequent purchasers of the abandoned vessel
4 or outboard motor or persons who acquire a security interest in the
5 vessel or outboard motor, and their successors in interest, against
6 any expense, loss, or damage, including reasonable attorney's fees,
7 resulting from:

8 (i) the issuance of the certificate of
9 title for the abandoned vessel or outboard motor; or

10 (ii) a defect in or undisclosed security
11 interest in the right, title, or interest of the applicant to or in
12 the abandoned vessel or outboard motor;

13 (2) proves to the satisfaction of the department that:

14 (A) the abandoned vessel or outboard motor is not
15 stolen;

16 (B) issuance of a certificate of title would not
17 defraud the owner or a lienholder of the abandoned vessel or
18 outboard motor;

19 (C) at least 30 days before the applicant applied
20 for the certificate, the applicant contacted the applicant's local
21 law enforcement agency through certified mail to report that the
22 vessel or outboard motor is abandoned; and

23 (D) the local law enforcement agency has not
24 taken the abandoned vessel or outboard motor into custody or
25 informed the applicant of the agency's intent to take the abandoned
26 vessel or outboard motor into custody; and

27 (3) posts notice of the certificate of title

1 application in the manner and for a period of time designated by
2 rule by the department.

3 (c) A person described by Subsection (b)(1)(D) has a right
4 of action to recover on the bond for a breach of a condition of the
5 bond described by Subsection (b)(1)(D). The aggregate liability of
6 the surety to all persons may not exceed the amount of the bond.

7 (d) A bond filed under this section expires on the third
8 anniversary of the date the bond became effective. The department
9 shall return an expired bond to the person who filed the bond unless
10 the department has been notified of a pending action to recover on
11 the bond.

12 (e) On return of a bond under Subsection (d), the department
13 shall issue a certificate of title to the person to whom the bond is
14 returned.

15 (f) If an abandoned vessel or outboard motor is not claimed
16 before the department issues a certificate of title under this
17 section, the owner or lienholder waives all rights and interests in
18 the abandoned vessel or outboard motor and consents to the
19 cancellation of the certificate for the abandoned vessel or
20 outboard motor.

21 (g) The applicant for the certificate of title for the
22 abandoned vessel or outboard motor takes title free and clear of all
23 liens and claims of ownership.

24 (h) In addition to the situation described by Subsection
25 (b)(2), the commission by rule may define acceptable situations in
26 which certificates of title may be issued after the filing of a bond
27 under this section.

1 (i) This section does not apply to a vessel or outboard
2 motor that is subject to a contract or lien under Chapter 59 or 70,
3 Property Code.

4 SECTION 3. Section 683.001, Transportation Code, is amended
5 by adding Subdivision (11) to read as follows:

6 (11) "Aircraft" has the meaning assigned by Section
7 24.001.

8 SECTION 4. Section 683.011, Transportation Code, is amended
9 to read as follows:

10 Sec. 683.011. AUTHORITY TO TAKE ABANDONED MOTOR VEHICLE
11 INTO CUSTODY. (a) A law enforcement agency may take into custody
12 an abandoned motor vehicle, aircraft, watercraft, or outboard motor
13 found on public or private property.

14 (b) A law enforcement agency may use agency personnel,
15 equipment, and facilities or contract for other personnel,
16 equipment, and facilities to remove, preserve, store, send notice
17 regarding, and dispose of an abandoned motor vehicle, aircraft,
18 watercraft, or outboard motor taken into custody by the agency
19 under this subchapter.

20 SECTION 5. Section 683.012, Transportation Code, is amended
21 by amending Subsections (a), (b), (c), and (d) and adding
22 Subsection (a-1) to read as follows:

23 (a) A law enforcement agency shall send notice of
24 abandonment to:

25 (1) the last known registered owner of each motor
26 vehicle, aircraft, watercraft, or outboard motor taken into custody
27 by the agency or for which a report is received under Section

1 683.031; and

2 (2) each lienholder recorded:

3 (A) under Chapter 501 for the motor vehicle;

4 (B) with the Federal Aviation Administration or
5 the secretary of state for the aircraft; or

6 (C) under Chapter 31, Parks and Wildlife Code,
7 for the watercraft or outboard motor.

8 (a-1) A law enforcement agency that takes into custody an
9 aircraft shall contact the Federal Aviation Administration in the
10 manner described by Section 22.901 to attempt to identify the owner
11 of the aircraft before sending the notice required by Subsection
12 (a).

13 (b) The notice under Subsection (a) must:

14 (1) be sent by certified mail not later than the 10th
15 day after the date the agency:

16 (A) takes the abandoned motor vehicle, aircraft,
17 watercraft, or outboard motor into custody; or

18 (B) receives the report under Section 683.031;

19 (2) specify the year, make, model, and identification
20 number of the item;

21 (3) give the location of the facility where the item is
22 being held;

23 (4) inform the owner and lienholder of the right to
24 claim the item not later than the 20th day after the date of the
25 notice on payment of:

26 (A) towing, preservation, and storage charges;

27 or

1 (B) garagekeeper's charges and fees under
2 Section 683.032 and, if the vehicle is a commercial motor vehicle
3 impounded under Section 644.153(q), the delinquent administrative
4 penalty and costs; and

5 (5) state that failure of the owner or lienholder to
6 claim the item during the period specified by Subdivision (4) is:

7 (A) a waiver by that person of all right, title,
8 and interest in the item; and

9 (B) consent to the sale of the item at a public
10 auction.

11 (c) Notice by publication in one newspaper of general
12 circulation in the area where the motor vehicle, aircraft,
13 watercraft, or outboard motor was abandoned is sufficient notice
14 under this section if:

15 (1) the identity of the last registered owner cannot
16 be determined;

17 (2) the registration has no address for the owner; or

18 (3) the determination with reasonable certainty of the
19 identity and address of all lienholders is impossible.

20 (d) Notice by publication:

21 (1) must be published in the same period that is
22 required by Subsection (b) for notice by certified mail and contain
23 all of the information required by that subsection; and

24 (2) may contain a list of more than one abandoned motor
25 vehicle, aircraft, watercraft, or outboard motor.

26 SECTION 6. Section 683.013, Transportation Code, is amended
27 to read as follows:

1 Sec. 683.013. STORAGE FEES. A law enforcement agency or the
2 agent of a law enforcement agency that takes into custody an
3 abandoned motor vehicle, aircraft, watercraft, or outboard motor is
4 entitled to reasonable storage fees:

5 (1) for not more than 10 days, beginning on the day the
6 item is taken into custody and ending on the day the required notice
7 is mailed; and

8 (2) beginning on the day after the day the agency mails
9 notice and ending on the day accrued charges are paid and the
10 vehicle, aircraft, watercraft, or outboard motor is removed.

11 SECTION 7. Sections 683.014(a) and (c), Transportation
12 Code, are amended to read as follows:

13 (a) If an abandoned motor vehicle, aircraft, watercraft, or
14 outboard motor is not claimed under Section 683.012:

15 (1) the owner or lienholder:

16 (A) waives all rights and interests in the item;
17 and

18 (B) consents to the sale of the item by public
19 auction or the transfer of the item, if a watercraft, as provided by
20 Subsection (d); and

21 (2) the law enforcement agency may sell the item at a
22 public auction, transfer the item, if a watercraft, as provided by
23 Subsection (d), or use the item as provided by Section 683.016.

24 (c) The purchaser of a motor vehicle, aircraft, watercraft,
25 or outboard motor:

26 (1) takes title free and clear of all liens and claims
27 of ownership;

1 (2) shall receive a sales receipt from the law
2 enforcement agency; and

3 (3) is entitled to register the motor vehicle,
4 aircraft, watercraft, or outboard motor with and receive a
5 certificate of title from the appropriate authority.

6 SECTION 8. Sections 683.015(a) and (c), Transportation
7 Code, are amended to read as follows:

8 (a) A law enforcement agency is entitled to reimbursement
9 from the proceeds of the sale of an abandoned motor vehicle,
10 aircraft, watercraft, or outboard motor for:

11 (1) the cost of the auction;

12 (2) towing, preservation, and storage fees resulting
13 from the taking into custody; and

14 (3) the cost of notice or publication as required by
15 Section 683.012.

16 (c) After the period provided by Subsection (b), proceeds
17 unclaimed by the owner or lienholder shall be deposited in an
18 account that may be used for the payment of auction, towing,
19 preservation, storage, and notice and publication fees resulting
20 from taking other vehicles, aircraft, watercraft, or outboard
21 motors into custody if the proceeds from the sale of the other items
22 are insufficient to meet those fees.

23 SECTION 9. Section 683.071, Transportation Code, is amended
24 to read as follows:

25 Sec. 683.071. DEFINITION AND APPLICABILITY. (a) In this
26 subchapter, "junked vehicle" means a vehicle that:

27 (1) is self-propelled; and[+]

1 ~~[(1) does not have lawfully attached to it:~~

2 ~~[(A) an unexpired license plate; and~~

3 ~~[(B) a valid motor vehicle inspection~~
4 ~~certificate; and]~~

5 (2) is:

6 (A) wrecked, dismantled or partially dismantled,
7 or discarded; or

8 (B) inoperable and has remained inoperable for
9 more than:

10 (i) 72 consecutive hours, if the vehicle is
11 on public property; or

12 (ii) 30 consecutive days, if the vehicle is
13 on private property.

14 (b) For purposes of this subchapter, "junked vehicle"
15 includes a motor vehicle, aircraft, or watercraft. This subchapter
16 applies only to:

17 (1) a motor vehicle that does not have lawfully
18 attached to it:

19 (A) an unexpired license plate; and

20 (B) a valid motor vehicle inspection
21 certificate;

22 (2) an aircraft that does not have lawfully printed on
23 the aircraft an unexpired federal aircraft identification number
24 registered under Federal Aviation Administration aircraft
25 registration regulations in 14 C.F.R. Part 47; or

26 (3) a watercraft that does not have lawfully on board
27 an unexpired certificate of number.

1 SECTION 10. Section 683.074, Transportation Code, is
2 amended by amending Subsection (f) and adding Subsection (h) to
3 read as follows:

4 (f) On receipt of notice of removal of a motor vehicle under
5 Subsection (b)(3), the department shall immediately cancel the
6 certificate of title issued for the vehicle.

7 (h) On receipt of notice of removal of a watercraft under
8 Subsection (b)(3), the department shall notify the Parks and
9 Wildlife Department of the removal. On receipt of the notice from
10 the department, the Parks and Wildlife Department shall immediately
11 cancel the certificate of title issued for the watercraft.

12 SECTION 11. Section 683.076(d), Transportation Code, is
13 amended to read as follows:

14 (d) If the information is available at the location of the
15 nuisance, a resolution or order requiring removal of the nuisance
16 must include:

17 (1) for a motor vehicle, the vehicle's:

18 (A) [~~1~~] description;

19 (B) [~~2~~] vehicle identification number; and

20 (C) [~~3~~] license plate number;

21 (2) for an aircraft, the aircraft's:

22 (A) description; and

23 (B) federal aircraft identification number as
24 described by Federal Aviation Administration aircraft registration
25 regulations in 14 C.F.R. Part 47; and

26 (3) for a watercraft, the watercraft's:

27 (A) description; and

1 (B) identification number as set forth in the
2 watercraft's certificate of number.

3 SECTION 12. This Act takes effect September 1, 2011.