

BILL ANALYSIS

C.S.H.B. 2690
By: Elkins
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that many municipalities currently prohibit by ordinance the illegal sale of vehicles by unlicensed persons, known as curbstoning. However, these parties assert that many such ordinances are individually crafted with the assistance of state agencies and that there are currently no effective provisions that may be uniformly enforced across the state. C.S.H.B. 2690 seeks to provide a consistent regulatory environment across the state regarding the sale of motor vehicles by certain sellers.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2690 amends the Transportation Code to authorize a peace officer to cause a vehicle that is being offered for sale by a person who is engaged in business as a motor vehicle dealer without a dealer general distinguishing number to be towed from the location where the vehicle is being offered for sale and to be stored at a vehicle storage facility under certain conditions.

C.S.H.B. 2690 requires the peace officer, before causing the vehicle to be towed, to attach a conspicuous notice to the vehicle's front windshield or, if the vehicle has no front windshield, to a conspicuous part of the vehicle and sets out the required information to be included in the notice.

C.S.H.B. 2690 requires the peace officer who caused the vehicle to be towed, if it is in fact towed, to mail a written notice, not later than 48 hours after the vehicle was towed, to the last known address of the vehicle's registered owner and lienholders, as shown by Texas Department of Motor Vehicles (TxDMV) records, and sets out information required to be included in the notice. The bill requires the notice, if it is determined that the owner of the vehicle is a resident of another jurisdiction, to be sent to the agency responsible for vehicle titles and registration in that jurisdiction.

C.S.H.B. 2690 authorizes a peace officer, once notice has been attached to a vehicle, to prevent the vehicle from being removed by a person unless the person provides evidence of ownership in the person's name or written authorization from the owner of the vehicle for the person to offer the vehicle for sale in a manner other than by consignment.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2690 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Chapter 728, Transportation Code, is amended by adding Subchapter D to read as follows:	No equivalent provision.
<u>SUBCHAPTER D. SALE OF MOTOR VEHICLES BY UNLICENSED SELLERS</u>	No equivalent provision.
<u>Sec. 728.031. AUTHORIZED SELLERS; AUTHORIZED SALES LOCATIONS.</u>	No equivalent provision.
<u>(a) In this section, "authorized seller" means:</u>	No equivalent provision.
<u>(1) the owner of a motor vehicle;</u>	
<u>(2) the owner's:</u>	
<u>(A) spouse;</u>	
<u>(B) parent or stepparent;</u>	
<u>(C) grandparent or grandchild;</u>	
<u>(D) child or stepchild;</u>	
<u>(E) sibling; or</u>	
<u>(F) guardian; or</u>	
<u>(3) a decedent's estate.</u>	
<u>(b) Except as provided by Subsection (f)(4), a person may not sell or offer for sale a motor vehicle unless the person is an authorized seller.</u>	No equivalent provision.
<u>(c) Except as provided by Subsection (f), a person may not park a motor vehicle on public or private property with an indication that the vehicle is for sale displayed on the vehicle.</u>	No equivalent provision.
<u>(d) Except as provided by Subsection (e), a motor vehicle that is parked in violation of Subsection (c) may be removed:</u>	No equivalent provision.
<u>(1) immediately if parked on public property; or</u>	
<u>(2) two hours after notice under Section 728.032 has been posted on the vehicle if parked on private property.</u>	
<u>(e) A peace officer who requires a vehicle to be removed under this section shall first attempt to contact the person whose contact information is displayed on the vehicle. If the peace officer contacts the person, the peace officer must give the person one hour to provide evidence that the person is an authorized seller and remove the vehicle from the location. If the peace officer is</u>	No equivalent provision.

unable to contact the person, or the person is unable to present evidence that the person is an authorized seller, the peace officer shall cause the vehicle and any property on or in the vehicle to be removed and stored at a vehicle storage facility in accordance with Chapter 2308, Occupations Code.

(f) This section does not apply to:

(1) a single motor vehicle that is legally parked on the premises of the authorized seller's residence, or in the right-of-way immediately adjacent to the authorized seller's residence;

(2) a motor vehicle that is parked on public or private property adjacent to a building or location where the authorized seller traveled in the normal course of business, including a building or location where the authorized seller is employed;

(3) a motor vehicle that is parked on private property that has a notarized statement from the property owner displayed on the windshield or other conspicuous place on the motor vehicle, with the name, address, and telephone number of the property owner, authorizing the vehicle to be sold on the property; or

(4) a dealer who holds a current general distinguishing number issued under Chapter 503 and who is offering a motor vehicle for sale at the location for which the general distinguishing number is issued.

Sec. 728.032. NOTICE PROCEDURES. A peace officer may, without the consent of the owner of a motor vehicle parked on private property in violation of Section 728.031, cause the vehicle and any property on or in the vehicle to be removed and stored at a vehicle storage facility at the vehicle owner's expense if:

(1) the peace officer has mailed actual notice to the owner of the motor vehicle that the vehicle is in violation of Section 728.031 and that the vehicle will be towed and stored at the vehicle owner's expense if it is not removed; or

(2) the peace officer has attached a conspicuous notice on the motor vehicle's front windshield or, if the vehicle has no front windshield, to a conspicuous part of the vehicle:

(A) stating that the motor vehicle is parked in violation of Section 728.031;

(B) stating that the motor vehicle will be towed and stored at the expense of the

No equivalent provision.

No equivalent provision.

owner of the vehicle not before two hours after the notice is attached to the vehicle; and

(C) listing a telephone number that is answered 24 hours a day to enable the owner or operator of the vehicle to locate the vehicle.

Sec. 728.033. PROCEDURES FOR TOWING. All towing conducted under this subchapter must be performed in accordance with Chapter 2308, Occupations Code.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 1. Subchapter D, Chapter 503, Transportation Code, is amended by adding Section 503.096 to read as follows:

Sec. 503.096. TOWING OF VEHICLES.

(a) If a person is engaged in business as a dealer in violation of Section 503.021, a peace officer may cause a vehicle that is being offered for sale by the person to be towed from the location where the vehicle is being offered for sale and stored at a vehicle storage facility, as defined by Section 2308.002, Occupations Code.

(b) A peace officer may cause the vehicle to be towed under Subsection (a) only if:

(1) the peace officer has a reasonable suspicion that the vehicle is being offered for sale by a person engaged in business as a dealer in violation of Section 503.021;

(2) the peace officer has complied with the notice requirements under Subsection (c); and

(3) the notice under Subsection (c) was attached to the vehicle not less than two hours before the vehicle is caused to be towed.

(c) Before causing a vehicle to be towed under Subsection (a), the peace officer must attach a conspicuous notice to the vehicle's front windshield or, if the vehicle has no front windshield, to a conspicuous part of the vehicle stating:

(1) the make and model of the vehicle and the license plate number and vehicle identification number of the vehicle, if any;

(2) the date and time that the notice was affixed to the vehicle;

(3) that the vehicle is being offered for sale in violation of Section 503.021;

(4) that the vehicle and any property on or in the vehicle will be towed and stored at

No equivalent provision.

the expense of the owner of the vehicle not less than two hours after the notice is attached to the vehicle if the vehicle remains parked at the location; and

(5) the name, address, and telephone number of the vehicle storage facility where the vehicle will be towed.

(d) If a vehicle is towed under Subsection (a), the peace officer who caused the vehicle to be towed shall, not later than 48 hours after the vehicle was towed, mail a written notice to the last known address of the vehicle's registered owner and lienholders, as shown by the department's records. If it is determined that the owner of the vehicle is a resident of another jurisdiction, the notice shall be sent to the agency responsible for vehicle titles and registration in that jurisdiction. Written notice under this subsection must:

(1) include the make and model of the vehicle and the license plate number and vehicle identification number of the vehicle, if any;

(2) include the date and time that the vehicle was towed and the location from which the vehicle was towed;

(3) state that the vehicle was being offered for sale in violation of Section 503.021;

(4) state that the vehicle was towed and is being stored at the expense of the owner of the vehicle; and

(5) include the name, address, and telephone number of the vehicle storage facility where the vehicle was towed and is being stored.

(e) Once notice has been attached to a vehicle under Subsection (c), a peace officer may prevent the vehicle from being removed by a person unless the person provides evidence of ownership in the person's name or written authorization from the owner of the vehicle for the person to offer the vehicle for sale in a manner other than by consignment.

No equivalent provision.

SECTION 2. This Act takes effect September 1, 2013.

SECTION 2. Same as introduced version.