

BILL ANALYSIS

C.S.H.B. 533
By: Ashby
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties assert that current law is unclear regarding the authority of a peace officer to impound a vehicle operated by a motorist without liability insurance and that some municipalities have enacted ordinances that explicitly allow such an impoundment. C.S.H.B. 533 seeks to explicitly allow peace officers to impound a vehicle operated by a motorist without liability insurance at the expense of the vehicle owner or operator until proof of financial responsibility is presented.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 533 amends the Transportation Code to authorize a peace officer to impound or to authorize a towing company to remove and a vehicle storage facility to impound the motor vehicle of a person who the officer determines is involved in a motor vehicle accident or is stopped for an alleged violation of a law that applies to the operation of a motor vehicle on a roadway and who the officer determines operated the motor vehicle in violation of certain financial responsibility requirements under the Texas Motor Vehicle Safety Responsibility Act at the time of the accident or alleged violation.

C.S.H.B. 533 requires a peace officer who impounds or authorizes the impoundment of a motor vehicle under the bill's provisions to provide the operator with written instructions describing how the owner or operator of the vehicle may recover the motor vehicle from the law enforcement agency that employs the officer or the authorized vehicle storage facility. The bill establishes that the failure of a peace officer to provide the written instructions does not affect the authority of the officer, a towing company, or a vehicle storage facility to remove or impound the motor vehicle. The bill requires the law enforcement agency or authorized vehicle storage facility that impounds a motor vehicle under the bill's provisions to release the vehicle to the owner or operator of the vehicle only if the owner or operator provides to the agency or facility specified evidence relating to the vehicle's exemption from or compliance with the financial responsibility requirements or the establishment of valid financial responsibility for the vehicle and an unexpired driver's license or other form of identification approved by the Texas Commission of Licensing and Regulation issued to the owner or operator of the vehicle and the owner or operator pays all associated fees imposed under the Vehicle Storage Facility Act and the Texas Towing and Booting Act.

C.S.H.B. 533 requires the law enforcement agency or authorized vehicle storage facility that impounds a motor vehicle under the bill's provisions to release the vehicle to a person who is shown as a lienholder on the vehicle's certificate of title only if the person provides to the agency or facility a statement from an officer of the lienholder establishing that the obligation secured by the vehicle is in default and the person pays all associated fees imposed under the Vehicle Storage Facility Act and the Texas Towing and Booting Act. The bill requires a law enforcement agency or authorized vehicle storage facility that impounds a vehicle under the bill's provisions to release the vehicle if, while the vehicle is impounded, certificate of title to the vehicle is transferred by foreclosure, sale on execution, cancellation of a conditional sales contract, or judicial order and all fees imposed under the Vehicle Storage Facility Act and the Texas Towing and Booting Act are paid.

C.S.H.B. 533 requires the law enforcement agency or authorized vehicle storage facility that impounded a motor vehicle under the bill's provisions to allow the insurance company that provides coverage for a person who may be liable for damage to an impounded motor vehicle to inspect the vehicle and release the vehicle to the insurance company if the company finds that the vehicle is a total loss, pays all fees imposed under the Vehicle Storage Facility Act and the Texas Towing and Booting Act, and obtains consent for the release from the owner of the vehicle. The bill exempts the impoundment of a motor vehicle under the bill's provisions from Code of Criminal Procedure provisions relating to expenses for motor vehicles towed and stored for certain purposes.

C.S.H.B. 533 authorizes the Texas Commission of Licensing and Regulation to adopt rules necessary to implement the bill's provisions and specifies that the impoundment of a motor vehicle under the bill's provisions is in addition to any other punishment imposed under the Texas Motor Vehicle Safety Responsibility Act.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 533 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. The heading to Subchapter I, Chapter 601, Transportation Code, is amended.

SECTION 2. Chapter 601, Transportation Code, is amended by adding Subchapter I-1 to read as follows:

SUBCHAPTER I-1. FAILURE TO MAINTAIN EVIDENCE OF FINANCIAL RESPONSIBILITY; IMPOUNDMENT OF MOTOR VEHICLE AFTER ACCIDENT OR TRAFFIC VIOLATION

Sec. 601.271. DEFINITIONS.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Chapter 601, Transportation Code, is amended by adding Subchapter I-1 to read as follows:

SUBCHAPTER I-1. FAILURE TO MAINTAIN EVIDENCE OF FINANCIAL RESPONSIBILITY; IMPOUNDMENT OF MOTOR VEHICLE AFTER ACCIDENT OR TRAFFIC VIOLATION

Sec. 601.271. DEFINITIONS.

Sec. 601.272. IMPOUNDMENT OF MOTOR VEHICLE.

Sec. 601.273. RELEASE OF IMPOUNDED MOTOR VEHICLE. (a) A peace officer who impounds or authorizes the impoundment of a motor vehicle under Section 601.272 shall instruct the operator of the vehicle as to how the owner or operator of the vehicle may recover the motor vehicle from the law enforcement agency that employs the peace officer or the authorized vehicle storage facility.

(b) The law enforcement agency or authorized vehicle storage facility that impounds a motor vehicle under Section 601.272 may release the vehicle to the owner or operator of the vehicle only if the owner or operator:

(1) provides to the law enforcement agency or authorized vehicle storage facility evidence consistent with:

(A) Section 601.052, showing that on the date the vehicle was impounded, the motor vehicle was exempt from the requirements of Section 601.051;

(B) Section 601.053, showing that on that date the vehicle was in compliance with Section 601.051; or

(C) Section 601.053, showing that financial responsibility for the vehicle has been obtained and is valid;

(2) provides to the law enforcement agency or authorized vehicle storage facility a driver's license issued to the owner or operator of the vehicle; and

(3) pays all fees imposed as authorized under Chapters 2303 and 2308, Occupations Code.

(c) The law enforcement agency or authorized vehicle storage facility that impounds a motor vehicle under Section 601.272 may release the vehicle to a person who is shown as a lienholder on the

Sec. 601.272. IMPOUNDMENT OF MOTOR VEHICLE.

Sec. 601.273. RELEASE OF IMPOUNDED MOTOR VEHICLE. (a) A peace officer who impounds or authorizes the impoundment of a motor vehicle under Section 601.272 shall provide the operator with written instructions describing how the owner or operator of the vehicle may recover the motor vehicle from the law enforcement agency that employs the peace officer or the authorized vehicle storage facility. The failure of a peace officer to provide the written instructions does not affect the authority of the officer, a towing company, or a vehicle storage facility to remove or impound the motor vehicle.

(b) The law enforcement agency or authorized vehicle storage facility that impounds a motor vehicle under Section 601.272 shall release the vehicle to the owner or operator of the vehicle only if the owner or operator:

(1) provides to the law enforcement agency or authorized vehicle storage facility evidence consistent with:

(A) Section 601.052, showing that on the date the vehicle was impounded, the motor vehicle was exempt from the requirements of Section 601.051;

(B) Section 601.053, showing that on that date the vehicle was in compliance with Section 601.051; or

(C) Section 601.053, showing that financial responsibility for the vehicle has been obtained and is valid;

(2) provides to the law enforcement agency or authorized vehicle storage facility an unexpired driver's license or other form of identification approved by the Texas Commission of Licensing and Regulation issued to the owner or operator of the vehicle; and

(3) pays all fees imposed as authorized under Chapters 2303 and 2308, Occupations Code.

(c) The law enforcement agency or authorized vehicle storage facility that impounds a motor vehicle under Section 601.272 shall release the vehicle to a person who is shown as a lienholder on the

vehicle's certificate of title only if the person:

(1) provides to the law enforcement agency or authorized vehicle storage facility a statement from an officer of the lienholder establishing that the obligation secured by the vehicle is in default; and

(2) pays all associated fees imposed as authorized under Chapters 2303 and 2308, Occupations Code.

(d) The law enforcement agency or authorized vehicle storage facility that impounds a motor vehicle under Section 601.272 may release the vehicle if, while the vehicle is impounded:

(1) certificate of title to the vehicle is transferred by:

(A) foreclosure;

(B) sale on execution;

(C) cancellation of a conditional sales contract; or

(D) judicial order; and

(2) all fees imposed as authorized under Chapters 2303 and 2308, Occupations Code, are paid.

Sec. 601.274. AUTHORITY OF TEXAS COMMISSION OF LICENSING AND REGULATION.

Sec. 601.275. PENALTIES

vehicle's certificate of title only if the person:

(1) provides to the law enforcement agency or authorized vehicle storage facility a statement from an officer of the lienholder establishing that the obligation secured by the vehicle is in default; and

(2) pays all associated fees imposed as authorized under Chapters 2303 and 2308, Occupations Code.

(d) The law enforcement agency or authorized vehicle storage facility that impounds a motor vehicle under Section 601.272 shall release the vehicle if, while the vehicle is impounded:

(1) certificate of title to the vehicle is transferred by:

(A) foreclosure;

(B) sale on execution;

(C) cancellation of a conditional sales contract; or

(D) judicial order; and

(2) all fees imposed as authorized under Chapters 2303 and 2308, Occupations Code, are paid.

(e) This subsection applies only to an insurance company that provides coverage for a person who may be liable for damage to a motor vehicle that is impounded under Section 601.272. The law enforcement agency or authorized vehicle storage facility that impounded the motor vehicle shall:

(1) allow the insurance company to inspect the impounded motor vehicle; and

(2) release the impounded motor vehicle to the insurance company if the company:

(A) finds that the vehicle is a total loss;

(B) pays all fees imposed as authorized under Chapters 2303 and 2308, Occupations Code; and

(C) obtains consent for the release from the owner of the vehicle.

(f) Article 18.23, Code of Criminal Procedure, does not apply to the impoundment of a motor vehicle under Section 601.272.

Sec. 601.274. AUTHORITY OF TEXAS COMMISSION OF LICENSING AND REGULATION.

Sec. 601.275. PENALTIES

CUMULATIVE.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. This Act takes effect September 1, 2015.

CUMULATIVE.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.