

By: Thompson of Harris

H.B. No. 3131

Substitute the following for H.B. No. 3131:

By: Smith

C.S.H.B. No. 3131

A BILL TO BE ENTITLED

AN ACT

relating to abandoned vehicles held by vehicle storage facilities.

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

SECTION 1. Subchapter A, Chapter 2303, Occupations Code, is amended by adding Section 2303.004 to read as follows:

Sec. 2303.004. CONFLICT WITH OTHER LAW. To the extent of any conflict between this chapter and Chapter 683, Transportation Code, this chapter controls.

SECTION 2. Sections 2303.154(a), (a-1), and (b), Occupations Code, are amended to read as follows:

(a) ~~[If a vehicle is not claimed by a person permitted to claim the vehicle or a law enforcement agency has not taken an action in response to a notice under Section 683.031(c), Transportation Code, before the 15th day after the date notice is mailed or published under Section 2303.151 or 2303.152, the operator of the vehicle storage facility shall send a second notice to the registered owner and the primary lienholder of the vehicle.~~

~~[(a-1)]~~ If a vehicle is not claimed by a person permitted to claim the vehicle before the 10th day after the date notice is mailed or published under Section 2303.151 or 2303.152, the operator of the vehicle storage facility shall consider the vehicle to be abandoned, report the ~~[and send notice of]~~ abandonment by certified mail or electronic certified mail to a law enforcement agency with jurisdiction where the vehicle is located, and pay the

1 fee required by Section 683.031(c), Transportation Code. The law
2 enforcement agency may take custody of and dispose of the vehicle as
3 provided by [under] Chapter 683, Transportation Code.

4 (b) On or after the 15th day after the date notice is mailed
5 or published under Section 2303.151 or 2303.152, the operator of a
6 vehicle storage facility shall send a second notice to the
7 registered owner and the primary lienholder of the vehicle if the
8 facility has been notified that the law enforcement agency will not
9 take custody of the vehicle or the law enforcement agency has not
10 taken custody of the vehicle or has not responded to the report sent
11 under Subsection (a). Notice under this subsection [section] must
12 be sent by certified mail or electronic certified mail and include:

13 (1) the information listed in Section 2303.153(a);
14 (2) a statement of the right of the facility to dispose
15 of the vehicle under Section 2303.157; and

16 (3) a statement that the failure of the owner or
17 lienholder to claim the vehicle before the 30th day after the date
18 the notice is provided is:

19 (A) a waiver by that person of all right, title,
20 or interest in the vehicle; and

21 (B) a consent to the sale of the vehicle at a
22 public sale.

23 SECTION 3. Section 2303.157, Occupations Code, is amended
24 to read as follows:

25 Sec. 2303.157. DISPOSAL OF CERTAIN ABANDONED VEHICLES. (a)
26 The operator of a vehicle storage facility may dispose of a vehicle
27 for which the second notice is given under Section 2303.154(b) or

1 (c) [~~2303.154~~] if, before the 31st [~~30th~~] day after the date notice
2 is mailed or published, the vehicle is not:

3 (1) claimed by a person entitled to claim the vehicle;

4 or

5 (2) taken into custody by a law enforcement agency
6 under Chapter 683, Transportation Code.

7 (a-1) If the vehicle is not claimed by a person entitled to
8 claim the vehicle within the period described by Subsection (a),
9 the owner or primary lienholder:

10 (1) waives all rights and interests in the vehicle;

11 and

12 (2) consents to the sale of the vehicle at a public
13 sale.

14 (b) An operator entitled to dispose of a vehicle under this
15 section may sell the vehicle at a public sale without obtaining a
16 release or discharge of any lien on the vehicle, regardless of
17 whether notice was provided by mail or by publication under this
18 chapter. [~~The proceeds from the sale of the vehicle shall be~~
19 ~~applied to the charges incurred for the vehicle under Section~~
20 ~~2303.155. The operator shall pay any excess proceeds to the person~~
21 ~~entitled to those proceeds.~~]

22 (b-1) The purchaser of an abandoned vehicle:

23 (1) takes title free and clear of all liens and claims
24 of ownership;

25 (2) shall receive a sales receipt from the vehicle
26 storage facility; and

27 (3) is entitled to register the vehicle and receive a

1 certificate of title from the appropriate authority.

2 (b-2) A vehicle storage facility is entitled to
3 reimbursement from the proceeds of the public sale of an abandoned
4 vehicle for:

5 (1) the cost of the public sale; and

6 (2) charges incurred for the towing of the vehicle and
7 for storage of the vehicle as provided by Section 2303.155.

8 (b-3) After deducting the reimbursement allowed under this
9 section, the operator of the vehicle storage facility shall hold
10 the proceeds of the sale until the 90th day after the date of the
11 sale for the owner or lienholder of the vehicle.

12 (c) Notwithstanding Subsection (a), the operator of a
13 vehicle storage facility may dispose of a vehicle for which notice
14 was given under this subchapter as provided by this section if:

15 (1) the vehicle is an abandoned nuisance vehicle; and

16 (2) before the 30th day after the date the notice was
17 sent, the operator [~~facility~~] submits an application to the Texas
18 Department of Motor Vehicles [~~department~~] for disposal of the
19 vehicle.

20 (d) This subsection applies only to a vehicle received by a
21 vehicle storage facility before September 1, 2015. Notwithstanding
22 any other law, if an unclaimed abandoned vehicle is not claimed by a
23 person who is entitled to claim the vehicle on or before the 120th
24 day after the date the facility mailed or published the second
25 notice to the registered owner and primary lienholder of the
26 vehicle as required by Section 2303.154(a) before September 1,
27 2015, the facility may submit an application to the Texas

1 Department of Motor Vehicles to dispose of the vehicle. The
2 facility may dispose of the vehicle if the Texas Department of Motor
3 Vehicles approves the application. This subsection expires
4 September 1, 2016.

5 SECTION 4. Section 683.001(2), Transportation Code, is
6 amended to read as follows:

7 (2) "Garagekeeper" means an owner or operator of a
8 storage facility or a vehicle storage facility.

9 SECTION 5. Section 683.003, Transportation Code, is amended
10 by adding Subsection (c) to read as follows:

11 (c) To the extent of any conflict between this chapter and
12 Subchapter D, Chapter 2303, Occupations Code, that subchapter
13 controls for a vehicle stored in a vehicle storage facility.

14 SECTION 6. (a) Except as provided by Subsection (b) of this
15 section, the changes in law made by this Act apply only to a vehicle
16 received in storage on or after the effective date of this Act. A
17 vehicle received in storage, other than a vehicle to which Section
18 2303.157(d), Occupations Code, as added by this Act, applies,
19 before the effective date of this Act is governed by the law in
20 effect on the date the vehicle was received in storage, and the
21 former law is continued in effect for that purpose.

22 (b) Section 2303.157(d), Occupations Code, as added by this
23 Act, applies only to a vehicle received by a vehicle storage
24 facility before September 1, 2015.

25 SECTION 7. This Act takes effect September 1, 2015.