

By: Goldman

H.B. No. 3622

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. Section 2303.151, Occupations Code, is amended by amending Subsections (a) and (e) and adding Subsection (f) to read as follows:

(a) The operator of a vehicle storage facility who receives a vehicle that is registered in this state and that is towed to the facility for storage shall send a written notice to the registered owner and each recorded ~~[the primary]~~ lienholder of the vehicle not later than the fifth day after the date but not earlier than 24 hours after the time ~~[date]~~ the operator receives the vehicle.

(e) A notice under this section is considered to have been ~~[given on the date indicated on the postmark and to be]~~ timely filed if:

(1) the postmark or electronic proof of mailing from the United States Postal Service Internet website indicates that the notice was mailed within the period described by Subsection (a) or (b), as applicable; or

(2) the notice was published as provided by Section 2303.152.

(f) A state agency or a county assessor-collector may not require proof of delivery of the notice under this section as a condition for the issuance of a title.

SECTION 3. Section 2303.152, Occupations Code, is amended to read as follows:

Sec. 2303.152. NOTICE BY PUBLICATION. (a) Notice to the registered owner and each recorded ~~[the primary]~~ lienholder of a vehicle towed to a vehicle storage facility may be provided by publication in a print or electronic version of a newspaper of general circulation in the county in which the vehicle is stored if:

(1) the vehicle is registered in another state;

(2) the operator of the vehicle storage facility submits to the governmental entity with which the vehicle is registered a written or electronic request for information relating to the identity of the registered owner and any recorded lienholder ~~[of record]; or~~

~~(3) [the identity of the registered owner cannot be determined],~~

~~[(4)]~~ the registration does not contain an address for the registered owner ~~[, or~~

~~[(5) the operator of the storage facility cannot reasonably determine the identity and address of each lienholder].~~

(b) If a ~~[The]~~ written request is submitted, the request must:

(1) be correctly addressed;

(2) carry sufficient postage; and

(3) be sent by certified mail, return receipt requested, or by electronic certified mail.

(c) Notice by publication is not required if each notice sent as provided by Section 2303.151 is returned because:

(1) the notice was unclaimed or refused; or

(2) the person to whom the notice was sent moved without establishing ~~[leaving]~~ a forwarding address with the United States Postal Service.

(d) Only one notice is required to be published for a ~~[an abandoned nuisance]~~ vehicle.

(d-1) Notice by publication may include a list of more than one motor vehicle, watercraft, or outboard motor.

(e) Notice to the registered owner and each recorded ~~[the primary]~~ lienholder of a vehicle towed to a vehicle storage facility may be provided by publication in a print or electronic version of a newspaper of general circulation in the county in which the vehicle is stored if:

(1) the vehicle does not display a license plate, registration insignia, or other ~~[a vehicle inspection]~~ certificate indicating the state of registration;

(2) the identity of the registered owner cannot reasonably be determined by the operator of the storage facility; or

(3) the operator of the storage facility cannot reasonably determine the identity and address of each recorded lienholder.

SECTION 4. Section 2303.153(a), Occupations Code, is amended to read as follows:

(a) A notice by mail provided under Section 2303.151 must include:

- (1) the date the vehicle was accepted for storage;
- (2) the first day for which a storage fee is assessed;
- (3) the daily storage rate;
- (4) the type and amount of any other charge to be paid when the vehicle is claimed;
- (5) the full name, street address, and telephone number of the vehicle storage facility;
- (6) the hours during which the owner may claim the vehicle; ~~and~~
- (7) the facility license number preceded by "Texas Department of Licensing and Regulation Vehicle Storage Facility License Number" or "TDLR VSF Lic. No."; and
- (8) a description of the vehicle.

SECTION 5. Section 2303.154, Occupations Code, is amended by amending Subsections (a), (a-1), and (b) and adding Subsection (d) 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.]~~

1 ~~[(a-1)]~~ If a vehicle is not claimed by a person permitted to
 2 claim the vehicle before the 10th day after the date notice is
 3 mailed or published under Section 2303.151 or 2303.152, the
 4 operator of the vehicle storage facility shall consider the vehicle
 5 to be abandoned and, if required by the law enforcement agency with
 6 jurisdiction where the vehicle is located, report the ~~[and send~~
 7 ~~notice of]~~ abandonment by certified mail or electronic certified
 8 mail to the ~~[a]~~ law enforcement agency. A vehicle storage facility
 9 shall pay the fee required by Section 683.031(c), Transportation
 10 Code, if the facility is notified by the law enforcement agency that
 11 the law enforcement agency will send notices and take custody of and
 12 dispose of the vehicle as provided by ~~[under]~~ Chapter 683,
 13 Transportation Code.

14 (b) On or after the 15th day after the date notice is mailed
 15 or published under Section 2303.151 or 2303.152, the operator of a
 16 vehicle storage facility shall send a second notice to the
 17 registered owner and each recorded lienholder of the vehicle if the
 18 facility has been notified that the law enforcement agency will not
 19 take custody of the vehicle or the law enforcement agency has not
 20 taken custody of the vehicle or has not responded to the report sent
 21 under Subsection (a). Notice under this subsection ~~[section]~~ must
 22 be sent by certified mail or electronic certified mail and include:

23 (1) the information listed in Section 2303.153(a);
 24 (2) a statement of the right of the facility to dispose
 25 of the vehicle under Section 2303.157; and

26 (3) a statement that the failure of the owner or any
 27 lienholder to claim the vehicle before the 30th day after the date

the notice is provided is:

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

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

(d) A report sent under Subsection (a) may contain a list of more than one motor vehicle, watercraft, or outboard motor.

SECTION 6. Section 2303.1545(b), Occupations Code, is amended to read as follows:

(b) The facility may:

(1) notify the Texas Department of Motor Vehicles ~~[department]~~ that notices under Chapter 683, Transportation Code, have been provided and shall pay a fee of \$10 to the Texas Department of Motor Vehicles ~~[department]~~; or

(2) in the alternative, notify the appropriate law enforcement agency and pay a fee of \$10 to that agency, if required by the law enforcement agency.

SECTION 7. Section 2303.157, Occupations Code, is amended by amending Subsection (b) and adding Subsections (a-1) and (b-1) to read as follows:

(a-1) If the vehicle is not claimed by a person entitled to claim the vehicle within the period described by Subsection (a), the owner and each of the lienholders:

(1) waive all rights and interests in the vehicle; and

(2) consent to the sale of the vehicle at a public sale.

(b) An operator entitled to dispose of a vehicle under this

1 section may sell the vehicle at a public sale without obtaining a
2 release or discharge of any lien on the vehicle, regardless of
3 whether notice was provided by mail or by publication under this
4 chapter. The proceeds from the sale of the vehicle shall be applied
5 to the charges incurred for the vehicle under Section [2303.155](#), any
6 towing and recovery charges, and the cost of the public sale. The
7 operator shall pay any excess proceeds to the person entitled to
8 those proceeds.

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

10 (1) takes title free and clear of all liens and claims
11 of ownership;

12 (2) shall receive an auction sales receipt from the
13 vehicle storage facility; and

14 (3) is entitled to register the vehicle and receive a
15 certificate of title from the appropriate authority.

16 SECTION 8. Section [2303.153](#)(d), Occupations Code, is
17 repealed.

18 SECTION 9. The changes in law made by this Act apply only to
19 a vehicle received in storage on or after the effective date of this
20 Act. A vehicle received in storage before the effective date of
21 this Act is governed by the law in effect on the date the vehicle was
22 received in storage, and the former law is continued in effect for
23 that purpose.

24 SECTION 10. This Act takes effect immediately if it
25 receives a vote of two-thirds of all the members elected to each
26 house, as provided by Section [39](#), Article III, Texas Constitution.
27 If this Act does not receive the vote necessary for immediate

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1 effect, this Act takes effect September 1, 2017.