

By: Guillen

H.B. No. 4440

A BILL TO BE ENTITLED

AN ACT

relating to possessory liens and the exemption of personal property therefrom.

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

SECTION 1. Section 2303.158, Occupations Code, is amended to read as follows:

Sec. 2303.158. POSSESSORY LIEN, PERFECTION, PERSONAL PROPERTY, AND ACCESS TO GLOVE COMPARTMENT, CONSOLE, OR OTHER INTERIOR STORAGE AREA TO ESTABLISH IDENTITY OR OWNERSHIP. (a) The operator of a vehicle storage facility shall have a first priority possessory lien on the vehicle and its contents for all charges for all reasonable towing, recovery, and storage fees, including all fees set by law or Department rule, for which the owner, operator, or carrier is liable.

(i) The possessory lien under this Section attaches to not only the vehicle and its contents, but also to any trailer attached to the vehicle or that was towed and stored in conjunction with the vehicle as well as any contents of the trailer including, but not limited to, other vehicles, boats, and cargo.

(b) A lien under this Section shall not extend or attach to the following personal items, without limitation:

(i) personal or legal documents;

(ii) Medications;

(iii) child-restraint seating;

1           (iv) wallets, purses, and the contents of such;

2           (v) prescription eyeglasses;

3           (vi) prosthetics;

4           (vii) cell phones;

5           (viii) photographs; and

6           (ix) books.

7           (c) The items described in Section 2308.158 (b)(i)-(ix)  
8 shall be released without charge by the towing and storage firm to  
9 the owner or operator of the motor vehicle or his or her duly  
10 authorized representative.

11           (d) The operator of a vehicle storage facility or a  
12 governmental vehicle storage facility must allow a person claiming  
13 to be the owner of a vehicle stored or parked at the facility to have  
14 access to the vehicle's glove compartment, console, or other  
15 interior storage area if documents necessary to establish the  
16 person's identity or ownership of the vehicle are located in the  
17 glove compartment, console, or other interior storage area.

18           (e) The lien described in this Section may be perfected by:

19                   (i) maintaining possession; or

20                   (ii) mailing notice(s) to the owner and registered  
21 lienholder as required by this Chapter.

22           (f) a towing company or vehicle storage facility that in  
23 good faith follows the procedures of this Section shall not be  
24 liable for claims of conversion or civil theft in relation to the  
25 vehicles or their contents for maintaining property pursuant to the  
26 possessory lien as provided by this Section.

27           (g) a person who forecloses on a lien described in this

1 Chapter, a person that purchases property pursuant to the  
2 foreclosure of such possessory lien, and any person applying for  
3 ownership of or title to property purchased or sold at the public  
4 sale, whether through use of forms promulgated by the Texas  
5 Department of Motor Vehicles including Form VTR-265-VSF as amended,  
6 restated, or modified from time to time, shall not be liable for  
7 claims of conversion or civil theft in relation to the vehicles,  
8 their contents, or personal property.

9 SECTION 2. This Act takes effect September 1, 2021.