

By: Gamez

H.B. No. 3148

A BILL TO BE ENTITLED

AN ACT

relating to a vehicle storage facility operator's possessory lien on a vehicle and the vehicle's cargo, contents, and other personal property.

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

SECTION 1. Subchapter D, Chapter 2303, Occupations Code, is amended by adding Section 2303.162 to read as follows:

Sec. 2303.162. POSSESSORY LIEN. (a) In this section:

(1) "Cargo" means goods, as defined by Section 7.102, Business & Commerce Code, that constitute, wholly or partly, a commercial shipment of freight moving in commerce. A shipment is considered to be moving in commerce if the shipment is located at any point between the point of origin and the final point of destination regardless of any temporary stop that is made for the purpose of transshipment or otherwise.

(2) "Personal property" includes personal property as defined by Section 545.3051, Transportation Code.

(3) "Vehicle" includes a trailer:

(A) attached to the vehicle; or

(B) towed and stored in conjunction with the vehicle.

(b) A vehicle storage facility operator has a first priority possessory lien on a vehicle stored or parked at the facility for all reasonable towing, recovery, and storage charges for which the

owner, operator, or carrier of the vehicle is liable, including for all fees established by law or department rule.

(c) Except as provided by Subsection (d), in addition to the vehicle described by Subsection (b), a possessory lien under this section attaches to:

(1) the vehicle's contents; and

(2) the contents of or personal property carried by a trailer described by Subsection (a)(3), including cargo or a vehicle or boat.

(d) A lien under this section does not attach to a vehicle owner's or operator's personal belongings that are designated by commission rule as exempt from attachment under this section.

(e) On request of the vehicle's owner or operator, or the owner's or operator's authorized representative, a vehicle storage facility operator shall release without charge the personal belongings described by Subsection (d). If the release of personal belongings described by Subsection (d) is not requested by a person qualified to make the request as provided by this subsection, the belongings are considered to be part of a vehicle for purposes of a waiver under Section 2303.154(b)(3)(A) or (c)(2)(A).

(f) A lien under this section attaches in preference to any prior lien.

(g) A vehicle storage facility operator may perfect a lien under this section by:

(1) maintaining possession of:

(A) the vehicle;

(B) the vehicle's contents; or

1 (C) the contents of or personal property carried
2 by a trailer described by Subsection (a)(3), including cargo or a
3 vehicle or boat; or

4 (2) sending the written notices to the registered
5 owner and lienholder of the vehicle as required by this chapter.

6 (h) A vehicle storage facility or a towing company, as
7 defined by Section 2308.002, that complies with this section is not
8 liable for a claim of conversion or civil theft in relation to
9 maintaining possession of a vehicle or a vehicle's contents
10 pursuant to a possessory lien under this section.

11 (i) A person is not liable for a claim of conversion or civil
12 theft in relation to a vehicle or the contents of the vehicle or
13 related personal property if the person:

14 (1) forecloses on a possessory lien under this
15 section;

16 (2) purchases property pursuant to the foreclosure of
17 a possessory lien under this section; or

18 (3) applies for ownership of or title to property
19 purchased or sold at public sale under this chapter, including
20 through use of a licensed vehicle storage facility lien foreclosure
21 form or a similar form adopted by the Texas Department of Motor
22 Vehicles.

23 (j) Nothing in this section requires a vehicle storage
24 facility or towing company to create an inventory of or to preserve
25 the contents of any vehicle.

26 SECTION 2. The changes in law made by this Act apply only to
27 a vehicle accepted for storage by a vehicle storage facility on or

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1 after the effective date of this Act.

2 SECTION 3. This Act takes effect September 1, 2023.