

- SUBJECT:** Establishing maximum fees for nonconsensual tows
- COMMITTEE:** Transportation — committee substitute recommended
- VOTE:** 9 ayes — Alexander, Siebert, Y. Davis, Edwards, Hamric, Hawley, Hill, Noriega, Uher
0 nays
- WITNESSES:** For — Jeannete Rash, Texas Towing and Storage Association
Against — None
- BACKGROUND:** In 1995, Congress deregulated the towing industry, removing the authority of a city or county to regulate a towing company that tows a vehicle from private property without the consent of the owner or operator of the vehicle. An amendment, approved in 1996, authorized local authorities to regulate the fees of a nonconsensual tow. Since then, most municipalities in Texas have adopted local ordinances, rules, or orders to regulate these fees. However, these local regulations do not cover towing companies that operate in unincorporated areas.
- DIGEST:** CSHB 1708 would amend the Transportation Code to establish a maximum fee schedule, determined by the gross weight of a vehicle, that a towing company could charge for a nonconsensual tow from public or private property. Any local rule, ordinance, or order regulating the conduct of a towing company would take precedence over this bill. HB 1708 also would establish an insurance requirement for towing companies.
- The maximum amount a towing company could charge for such a tow would be \$90 if the vehicle had a gross vehicle weight rating of 10,000 pounds or less; \$125 for a vehicle of more than 10,000 pounds but less than 26,001 pounds; or \$300 for a vehicle of 26,001 pounds or more.
- CSHB 1708 would require a tow truck operator to release the vehicle to the owner or operator if the vehicle had not yet been moved from the site from which it was to be towed, if the vehicle was ready to be towed legally over a

public road or highway, and if the vehicle owner or operator paid the tow truck operator a \$30 fee.

The towing company would have to issue a receipt for the fee to the vehicle owner or operator and keep a copy of the receipt at the towing company's place of business for two years.

A towing company or operator of a tow truck who violated these provisions would commit a Class A misdemeanor, punishable by up to one year in jail and/or a maximum fine of \$4,000.

HB 1708 would require a towing company to have at least \$25,000 of on-hook cargo insurance coverage for each tow truck the company operated.

This bill would take effect September 1, 1999.

**SUPPORTERS
SAY:**

HB 1708 would protect people whose vehicles are towed without their consent, while preserving local control over towing fee regulations.

The bill would give local authorities the flexibility to establish their own regulations for towing fees. It would cap fees that towing companies could charge for towing a vehicle without the owner or operator's consent in areas without local regulations.

Currently, towing companies do not have to carry on-hook cargo insurance. This bill would ensure that all towing companies were insured for at least \$25,000 per truck to cover any potential damages to vehicles that the trucks transported.

HB 1708 would establish a criminal penalty for towing companies that violated the bill's provisions. This would allow complaints about fees charged by a towing company for a nonconsensual tow to be remedied through the criminal court process.

**OPPONENTS
SAY:**

The committee substitute would delegate no authority to enforce the bill's provisions. TxDOT has a toll-free complaint line in place, but the department would not be authorized to respond to complaints about nonconsensual towing fees by taking action against a towing company.

NOTES:

The committee substitute changed the original bill significantly. It changed the maximum fee schedule by deleting vehicle length and width requirements and by changing weight requirements and fees. The substitute also added the insurance requirement and the provision that would require the tow truck operator to release a vehicle to the owner or operator of a vehicle under certain circumstances.

The original bill would have required the Texas Department of Transportation (TxDOT) to increase the fees in the maximum fee schedule by a specific amount on January 1 of each odd-numbered year. It also would have required TxDOT to publish a schedule of the maximum fees authorized after each increase.

The original bill would have authorized TxDOT to impose an administrative penalty against towing companies that violated the bill's provisions and would have required the department to designate one or more employees to investigate violations and administer the penalties. This provision would have required additional administrative review and on-site investigations. The department also would have had to hire three additional employees. As a result, the Legislative Budget Board estimated that the original bill would have cost the state highway fund \$258,514 in fiscal 2000 and \$240,543 each year thereafter. The changes by the committee substitute eliminated any fiscal implications for the state.