

SUBJECT: Revising the Vehicle Storage Facility Act

COMMITTEE: Transportation — committee substitute recommended

VOTE: 9 ayes — Alexander, Hawley, Y. Davis, Edwards, Hamric, Hill, Noriega, Pickett, Swinford

0 nays

0 absent

WITNESSES: For — Donald McClure, Texas Auto Title and Registration Consultants; Jeanette Rash, Texas Towing and Storage Association; *Registered but did not testify*: Larry Cernosek, Rick Chron and Joann Messina, Texas Towing and Storage Association; Suzanne Cook, Zone 2 Auto Storage; Angela Roper, Roper's Wrecker Service

Against — None

BACKGROUND: In 1985, the 69th Legislature enacted the Vehicle Storage Facility Act (VACS, art. 6687-9a) setting licensing, fee, notice, hearing, and other requirements for garages, parking lots, towing and wrecker yards, and other businesses that store 10 or more vehicles.

A vehicle storage facility operator who receives a towed vehicle must provide written notice to the registered owner and primary lienholder. Notice by publication is allowed if the identity of the owner or lienholder cannot be determined. The operator may charge the owner a fee for giving notice. If the vehicle is not claimed within 41 days after the notice is mailed or published, the owner must send a second notice. The operator may sell the vehicle if it is not claimed or taken into custody by a law enforcement agency within 30 days of the second notice.

DIGEST: CSHB 2243 would provide for the removal of abandoned nuisance vehicles, allow fee increases, and change notice provisions by vehicle storage facility operators.

The bill would define an abandoned nuisance vehicle as a motor vehicle that was at least eight years old and in such condition as only to be demolished, wrecked, or dismantled. Facilities holding such vehicles would have to notify owners or publish notices only once. The facilities could dispose of these vehicles 30 days after the initial notice was mailed and published. Facilities could notify either the Texas Department of Transportation (TxDOT) or the appropriate law enforcement agency that proper notice had been given and pay either agency a \$10 fee. Facilities would have to apply to TxDOT within 30 days of sending initial notice in order to dispose of abandoned nuisance vehicles.

The bill would allow operators to raise notification charges to customers from \$25 to \$32. If the cost of publishing a notice exceeded 50 percent of the fee, operators would be able to recoup the additional notification costs from the vehicle owner or agent. They also could charge additional fees for second notices. The bill would require operators to charge \$30 a day to store vehicles longer than 25 feet. Operators also would be authorized to collect any fees due governmental entities, law enforcement agencies, or their agents.

Repossessors holding liens against vehicles would be considered owners for purposes of the act.

Published notices would have to contain the vehicle description; total charges; the facility's full name, street address and telephone number; and the TxDOT registration number. Second published notices also would have to include a statement that the owner or lienholder would waive all rights, title, and interest in the vehicle and consent to its public sale if they did not respond to the notice before the sale date.

The bill would take effect September 1, 2001.

**SUPPORTERS
SAY:**

HB 2243 would speed the process of disposing of abandoned nuisance vehicles by eliminating the second notice requirement to owners. Junk vehicles are a growing problem that only gets worse as the state's population increases and Texans acquire more vehicles and drive older ones longer. Requiring an application to TxDOT and notice to either TxDOT or

law enforcement would ensure that owners' and lienholders' rights are not infringed.

HB 2243 would grant facility operators long overdue fee increases for statutory notice requirements. While vehicle storage facilities could aid significantly in the eradication of junk vehicles, regulated industries should be justly compensated for complying with the law. More legal notices now are required and the costs of postage, certified mail, publication, labor, and junk vehicle disposal all have increased substantially since the act was enacted in 1985.

The bill would include notification of lienholders with repossession rights when operators acquired vehicles. The bill also would reduce the amount of information required for initial published notices to ease operators' paperwork burden without sacrificing essential details.

Allowing operators to collect law enforcement and other governmental fees would be an added convenience for vehicle owners, saving them another step in the process of reclaiming their vehicles.

**OPPONENTS
SAY:**

Rather than make an industry wait 15 years to adjust its fees for inflation, the marketplace, not the Legislature, should set fees for services rendered by private businesses.

**OTHER
OPPONENTS
SAY:**

HB 2243 also should allow a daily storage fee increase. Allowing operators to charge extra for releasing vehicles after hours on short notice also would be a reasonable expense.

NOTES:

The bill as filed would have allowed daily storage rate increases, one-time \$10 fees for releasing vehicles between 9 p.m. and 7 a.m. on an hour's notice by the owner or agent, and maximum notice charges to owners of \$30. The original bill's effective date was the 91st day after adjournment.

A similar bill, HB 2313 by Bosse, was reported favorably, as substituted, by the Transportation Committee on April 14.