

- SUBJECT:** Regulating disposal of abandoned nuisance vehicles
- COMMITTEE:** Transportation — committee substitute recommended
- VOTE:** 9 ayes — Alexander, Hawley, Y. Davis, Edwards, Hamric, Hill, Noriega, Pickett, Swinford
- 0 nays
- WITNESSES:** For — *Registered but did not testify:* Larry Cernosek, Rick Chron, Joann Messina and Jeanette Rash, Texas Towing and Storage Association; Suzanne Cook, Zone 2 Auto Storage/Northside Storage Lot; Donald H. McClure, Texas Auto Title & Registration Consultants Inc.; Angela Roper, Roper's Wrecker Service
- Against — None
- BACKGROUND:** Transportation Code, ch. 683 deals with abandoned motor vehicles. Sec. 683.012 requires law enforcement agencies to notify last known registered owners or lienholders of abandoned vehicles in their custody or to publish notices if they cannot be identified or located. Owners or lienholders have 20 days to claim vehicles after paying any towing or storage fees owed. If law enforcement agencies do not take vehicles into custody within 30 days of notice, sec. 683.034(e) allows storage facilities to dispose of the vehicles by public sale under Property Code, ch. 70.
- 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 2313 would change certain procedures that law enforcement agencies and vehicle storage facilities must follow to dispose of abandoned nuisance vehicles.

The bill would define an abandoned nuisance vehicle as being at least eight years old and in such condition as only to be junked, crushed or dismantled. Vehicle storage facilities would be defined as licensed garages, parking lots or other facilities as listed in sec. 2 of the Vehicle Storage Facility Act.

CSHB 2313 specifically would allow vehicle storage facilities to obtain authority from the Texas Department of Transportation (TxDOT) to have abandoned nuisance vehicles demolished after notification of appropriate law enforcement authorities.

Once vehicle storage facilities had notified law enforcement agencies that an application had been made with TxDOT for permission to dispose of vehicles, the bill would exempt law enforcement agencies from having to notify owners of abandoned vehicles.

This bill would take effect September 1, 2001.

SUPPORTERS SAY: Current law does not allow law enforcement or vehicle storage facilities to dispose of “junk” vehicles efficiently or quickly. CSHB 2313 would streamline the process. CSHB 2313 also would conform the Transportation Code to language proposed in HB 2243 by Bosse amending the Vehicle Storage Facility Act.

Law enforcement agencies would be relieved of making an unnecessary notification to owners of abandoned vehicles. Vehicle storage facilities already notify owners or publish notices that they are in possession of their vehicles. If a facility had applied to TxDOT for disposal authority, another notice by law enforcement would be redundant.

Allowing storage facilities to use the Vehicle Storage Facilities Act to dispose of abandoned nuisance vehicles would reduce costs because only one notice to owners would be required under HB 2243.

Storage facilities that consistently abuse their discretion in handling vehicles may be subject to licensing penalties of up to \$10,000 from TxDOT. They also can incur civil liability for unlawful conversion.

OPPONENTS
SAY:

The bill would not specify how, or by whom, a vehicle's condition is to be determined to meet the definition of nuisance. This omission could lead to abuses of discretion and cause problems for vehicle owners and lienholders.

OTHER
OPPONENTS
SAY:

Exempting law enforcement from notifying owners when storage facilities had sought disposal authority would apply to any abandoned vehicle. Allowing facilities to seek TxDOT's permission for vehicle demolition is unnecessary under the Vehicle Storage Facility Act.

NOTES:

The author plans to offer a floor amendment clarifying that the law enforcement notice exemption would apply only to abandoned nuisance vehicles, not to all abandoned vehicles. The amendment also would delete the proposed provision allowing facilities to seek TxDOT approval for abandoned nuisance vehicle demolition because it already is allowed under the Vehicle Storage Facility Act. The author also plans to amend the definition of "abandoned nuisance vehicle" from eight to 15 years.

The original bill would have assessed a \$10 fee on facilities seeking TxDOT permission to demolish abandoned nuisance vehicles. The bill as filed also would have required a demolisher to obtain documentation before demolishing or dismantling abandoned nuisance vehicles.

The House finally passed HB 2243 by Bosse, also revising the Vehicle Storage Facility Act, by voice vote on May 1.