

SUBJECT: Requiring a valet parking service to maintain financial responsibility

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 7 ayes — Brimer, Dukes, Corte, J. Davis, George, Solomons, Woolley

0 nays

2 absent — Elkins, Giddings

WITNESSES: For — Connie Johnson

Against — None

DIGEST: CSHB 2495 would require a valet parking service to maintain financial responsibility and would establish offenses and fines for noncompliance. It would define valet parking service as a parking service through which the motor vehicles of patrons of a public accommodation are parked for a fee by a third party who is not an employee of the public accommodation.

No one could operate a valet parking service without establishing financial responsibility for each employee through a motor-vehicle liability insurance policy, through a surety bond, or by depositing \$450,000 with the comptroller. The minimum amounts of motor-vehicle liability insurance coverage would be \$100,000 for bodily injury to or death of one person in one accident; \$300,000 for bodily injury to or death of two or more persons in one accident, subject to the amount in the previous provision; and \$50,000 for damage to or destruction of property of others in one accident.

An employee of a valet parking service would commit an offense by operating a motor vehicle of a patron of the service without the specified financial responsibility. This offense would be a misdemeanor punishable by a fine of not less than \$175 or more than \$350. A subsequent offense by a person convicted previously of such an offense would be punishable by a fine of not less than \$350 or more than \$1,000. If a court found that a person who had not been convicted previously of an offense under this section could not afford to pay the fine, the court could reduce the fine to not less than

\$175. The owner or operator of a valet parking service would have to provide evidence of financial responsibility on request of a peace officer and would have to exhibit such evidence publicly at the public accommodation whose patrons used the parking service.

Providing one of the required documents to establish financial responsibility would be a defense to prosecution if the document was valid at the time the offense was alleged to have occurred. In an action against an owner or operator of a valet parking service that had not established the necessary financial responsibility, contributory negligence or an assumed risk of injury, death, or property could not be used as a defense.

This bill would take effect September 1, 2001.

**SUPPORTERS
SAY:**

CSHB 2495 would protect the customers of hotels and motels, restaurants, nightclubs, theaters, concert halls, stadiums, and other public facilities from liability for damages caused by the operation of their vehicles by employees of valet parking services.

Current state law does not require a valet parking service to hold liability insurance. As a result, patrons of public accommodations often have little or no protection for damages incurred while their vehicles are in the control of valet parking services. A person who is injured by the act of an uninsured valet parking service or whose property is damaged by an employee of such a service either must pay for the damages out-of-pocket or rely on his or her personal automobile insurance to cover the costs.

Automobile owners should not be responsible for costs incurred because of the negligence of a valet parking service. Most personal auto insurance policies in Texas exclude people engaged in valet parking businesses as authorized drivers and therefore do not cover the above-mentioned damages. By requiring valet parking services to provide evidence of financial responsibility, CSHB 2495 would heighten consumer awareness of liability issues in regard to these services. Since patrons are paying for these services, they have a right to know whether their property would be insured against damages and whether they would be protected from liability in the case of an accident.

OPPONENTS
SAY:

The motor-vehicle liability policies that CSHB 2495 would require as one option for establishing financial responsibility typically do not cover damage to property in the insured's care, custody, or control. The standard forms approved by the Texas Department of Insurance for business auto and garage insurance contain such exclusions. Valet parking services, which would fall under these exclusions, could not insure property, such as a patron's auto or property left in the vehicle, under these prescribed forms. Coverage for a patron's vehicle might be available to valet parking services through garage keeper's insurance, which the bill would not address, although this type of insurance would not insure the patron's personal belongings or the vehicle's contents. To insure a valet parking service for the contents of patrons' vehicles or personal property, the service would have to acquire a policy that provided bailee-type coverage, also not addressed by CSHB 2495.

These types of specialized coverage raise significant questions about the extent to which liability insurance for property would be available to valet parking services in the Texas market, and, if available, whether it would be affordable. These technical problems would make the bill impractical for protecting patrons of valet parking services and difficult to enforce.

Also, the costs of the amounts of liability insurance that the bill would specify could make it necessary for valet parking services to increase their rates substantially, possibly forcing some services out of business. Some owners and operators of valet parking services might find it more practical to risk having an employee charged with a misdemeanor punishable by a relatively low fine than to buy such expensive insurance.

OTHER
OPPONENTS
SAY:

By criminalizing the operation of a patron's motor vehicle without the required financial responsibility, this bill could penalize employees who had little or no control over the required financial responsibility and little or no knowledge of whether the owner or operator had complied with the law.

NOTES:

The committee substitute modified the definition of "valet parking service" to specify that the third party who parked motor vehicles of patrons of a public accommodation could not be an employee of that public accommodation.

The companion bill, SB 1614 by Armbrister, has been referred to the Senate Business and Commerce Committee.