

SUBJECT: Revising requirements for disposing of abandoned motor vehicles

COMMITTEE: Transportation — committee substitute recommended

VOTE: 5 ayes — Krusee, Hamric, Edwards, Garza, Harper-Brown

0 nays

4 absent — Phillips, Hill, Laney, Mercer

WITNESSES: For — Larry Cernosek and Jeanette Rash, Texas Towing and Storage Association

Against — None

BACKGROUND: Occupations Code, sec. 2303.002(7) defines a vehicle storage facility as a garage, parking lot, or other facility owned by a nongovernmental entity or person and used to store or park at least 10 vehicles per year. Sec. 2303.151 requires the operator of a vehicle storage facility to send written notice to the registered owner and primary lienholder of a vehicle towed to the storage facility between 24 hours and five days after receiving the vehicle. Under sec. 2303.152(a), the facility may provide notice in a newspaper if:

- the vehicle is registered in another state;
- the operator of the facility submits to the governmental entity in which the vehicle is registered a written request for the identity of the owner;
- the identity of the owner cannot be determined;
- the registration does not contain the owner's address; *and*
- the facility operator cannot determine the identities of the owner and each lienholder.

The operator of a vehicle storage facility may charge the owner of a vehicle stored at the facility an impoundment fee of \$10 for any action taken by the operator that is necessary to service or preserve a stored vehicle.

Transportation Code, sec. 683.011 allows a law enforcement agency to take into custody an abandoned vehicle found on public or private property. Sec.

683.012 requires the agency to send notice of abandonment by certified mail to the vehicle's registered owner and to each lienholder no later than 10 days after the agency takes the vehicle. The notice also must inform the owner and lienholder of the right to claim the item within 20 days of the notice. Sec. 683.034 authorizes a law enforcement agency to sell or use an abandoned vehicle that was taken into custody by the agency and has not been claimed. If the agency does not take the vehicle into custody, the vehicle storage facility may dispose of the vehicle, as long as the agency has provided notice to the owner and lienholders under sec. 683.012.

DIGEST:

CSHB 2100 would exempt a law enforcement agency from the requirement to notify the owner or lienholder of an abandoned vehicle that the agency had seized the vehicle if the agency had received notice from a vehicle storage facility that an application was being made to the Texas Department of Transportation to dispose of the vehicle.

A vehicle storage facility could dispose of an "abandoned nuisance vehicle," defined as a motor vehicle at least 10 years old and of a condition that would allow it only to be junked, crushed, or dismantled.

CSHB 2100 would amend Occupations Code, sec. 2303.152(a) to replace the word "and" with "or," allowing the facility to publish notice in a newspaper if any of the listed conditions were met, rather than all of them. The bill also would increase the allowable impoundment fee on a vehicle at a storage facility from \$10 to \$20.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

CSHB 2001 would introduce efficiency into the process of disposing of junk vehicles, providing relief to storage facilities that are overburdened with abandoned cars that no one wants. In 2001, the Legislature enacted HB 2243 by Bosse, which revised and streamlined many of the procedures for notifying the owners of towed vehicles. However, because of the lengthy and involved notification process that a law enforcement agency must undertake, abandoned cars that are not in working order often sit at a storage facility for three months before they can be demolished. These useless vehicles are a burden to facilities that already are required by law to notify the owner when the vehicle is received.

CSHB 2100 would not violate the rights of owners of abandoned, towed vehicles, since a storage facility must notify the owner when it receives any vehicle. A storage facility must send written notice to the vehicle owner and primary lienholder within days of receiving any vehicle and can publish this notice in a newspaper only after several unsuccessful attempts to reach the owner. Requiring a law enforcement agency also to notify the vehicle owner is a redundant practice that serves only to slow the process of disposing of unwanted vehicles.

Many Texas communities are littered with abandoned junk vehicles because vehicle storage facilities do not have enough space to house these unwanted nuisances. Allowing a vehicle storage facility to dispose of old vehicles that serve no useful purpose would allow law enforcement to rid neighborhoods of this problem and improve cities' quality of life.

CSHB 2100 legitimately would raise the impoundment fee for the first time since 1985. Operating costs for storage facilities have increased during this time while the value of iron has fallen, and proceeds from the fee are needed so that storage facilities can recoup the cost of impoundment.

**OPPONENTS
SAY:**

CSHB 2100 would open the door for abuse by a vehicle storage facility by allowing a facility to avoid making a serious attempt to notify a vehicle owner when the facility received a vehicle. Current law requires a facility to satisfy five requirements before the facility may publish notification in a newspaper. This bill would allow a facility to satisfy any one of these steps. Allowing a vehicle storage facility to make a half-hearted attempt to contact a vehicle owner would undermine the justification for removing the requirement for the law enforcement agency to notify the owner.

**OTHER
OPPONENTS
SAY:**

The bill also should eliminate the requirement that TxDOT notify the vehicle owner after a storage facility has applied to TxDOT to destroy an abandoned vehicle. TxDOT's notification requirement slows down the disposal process as much as the law enforcement notification and serves as little purpose.

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NOTES: The committee substitute amended the filed version of HB 2100 so that a vehicle storage facility could meet any, rather than all, of the five criteria to allow publishing notice in a newspaper.