

- SUBJECT:** Towing unattended vehicles from apartment complex parking areas
- COMMITTEE:** Urban Affairs — committee substitute recommended
- VOTE:** 4 ayes — Talton, Van Arsdale, Edwards, Wong  
0 nays  
3 absent — Menendez, Bailey, Hunter
- WITNESSES:** For — None  
Against — None  
On — David Mintz, Texas Apartment Association
- BACKGROUND:** Transportation Code, ch. 684 regulates removal of unauthorized vehicles from parking facilities or public roadways. Subchapter A defines “parking facility” to include a private parking lot, garage, or area serving or adjacent to an apartment complex. Subchapter B prohibits improperly parked unattended vehicles at parking facilities; provides for the removal and storage of unauthorized vehicles; and regulates towing companies’ authority. Sec. 684.012 requires apartment managers either to post signs warning that unauthorized vehicles will be towed or to notify vehicle owner/operators either by mail or by placing notices on vehicle windshields before removing vehicles from parking areas.
- DIGEST:** CSHB 560 would delineate where unattended vehicles could not be parked and would restrict removal of such vehicles. The bill would apply only to parking facilities serving or adjacent to apartment complexes or to any adjacent real property serving complexes.
- An unattended parked vehicle could not:
- obstruct a gate intended for use by vehicles or pedestrians;
  - obstruct vehicles or pedestrians from access to garbage receptacles shared by complex residents;

- be left in or obstruct restricted parking areas or spaces, including spaces designated for facility or complex employees or maintenance personnel;
- be left in tow-away zones, other than fire lanes, that are brightly painted and conspicuously and legibly marked with contrasting letters at least three inches high; or
- be leaking hazardous or threatening fluids.

Trailers, semitrailers, or truck-tractors could not be parked and left unattended unless apartment complex leases or rental agreements permitted their owners or operators to do so.

Parking facility owners could not remove vehicles merely because their license plates or vehicle registration or state inspection stickers had expired (whether issued by Texas or another state or country), unless contractually authorized to do so. Contracts allowing facility owners to remove vehicles with expired licensed plates or registration or inspection stickers would have to require facility owners to give vehicle owner/operators at least 10 days' advance written notice of towing at the owner/operator's expense. Notices would have to be delivered in person to vehicle owner/operators or sent by certified mail with return receipt requested.

Apartment complex owners could not remove government-owned emergency vehicles or emergency vehicles operated by government-sanctioned entities.

The bill could not be construed to authorize vehicle owner/operators to leave unattended vehicles on property not designed or intended for parking, nor to limit or restrict enforcement of laws concerning abandoned motor vehicles.

The bill would take effect January 1, 2004. Apartment leases or rental agreements entered into or renewed on or after that date that conflicted with or were inconsistent with the bill's provisions would be void.

**SUPPORTERS  
SAY:**

CSHB 560 would strike a balance between vehicle owner/operators' property rights and apartment managers' security concerns. Current law contains no uniform set of rules for apartment complex parking or for removing unattended parked vehicles from complexes' parking lots or adjacent property. This vacuum has led to apartment complex owners and managers

developing their own rules on parking and towing, leading to inconsistency and a confusing patchwork of policies around the state.

The bill would bring clarity and uniformity to this issue by specifying where and how unattended vehicles could not be parked; prohibiting unattended parking of large trucks without contractual authorization and of vehicles leaking hazardous fluids; and precluding unattended parking on property adjacent to and serving apartment complexes. The bill also would discourage unattended parking on property not designed for parked vehicles.

The bill would exempt government-owned emergency vehicles, emergency vehicles operated by government-sanctioned entities, and vehicles left unattended in properly marked fire lanes.

Some apartment complex managers link tenants' parking privileges to vehicle registration and inspection, even though expiration primarily is considered a moving violation subject to law enforcement. CSHB 560 would prohibit removal of such vehicles unless stipulated by contract. To protect tenants, apartment managers would have to give them 10 days' written notice before towing their vehicles. This is only fair, since the state allows grace periods for such expirations.

The bill would not apply to abandoned vehicles, which the law defines as inoperable and left without permission for more than 48 hours.

January 1 would be the most appropriate effective date, because it would coincide with the execution or renewal of most tenants' apartment leases and rental agreements.

**OPPONENTS  
SAY:**

Profiteering towing companies and overzealous apartment managers often remove vehicles with little or no notice for insignificant technical infractions, such as tires resting on parking-space stripes. To address such abuses, CSHB 560 should require 24- or 48-hour written notice to owner/operators before any vehicle is removed.

The bill is ambiguous as to whether apartment managers could order vehicles to be towed because of parking violations the bill would define. The bill either should state expressly that vehicles in violation of these provisions

could be towed or should include a reference to the new subsection in Transportation Code, sec. 684.012(a)(4)(A), which allows towing of unauthorized vehicles as defined in sec. 684.011.

The bill should define more precisely hazardous fluids, or fluids posing a threat, that leak from unattended parked vehicles. Otherwise, it would leave assessment of the danger posed by automotive fluids up to apartment managers' discretion. The bill also would not define clearly enough the description of tow-away zone markings.

**NOTES:**

As filed, HB 560 would have taken effect September 1, 2003. It would not have applied to adjacent property serving apartment complexes, nor would it have required 10 days' advance written notice before towing for expiration of inspection, registration, or license plates, if allowed by contract.