

SUBJECT: Restricting Harris County tow truck light regulation

COMMITTEE: Transportation — committee substitute recommended

VOTE: 7 ayes — Krusee, Phillips, Edwards, Garza, Hamric, Harper-Brown, Mercer
0 nays
2 absent — Hill, Laney

WITNESSES: For — Larry Cernosek, Texas Towing and Storage Association
Against — None

BACKGROUND: Transportation Code, sec. 643.201(a), allows political subdivisions in Texas to regulate tow truck operations to the extent allowed by federal law. Section 545.306(a) requires the Harris County Commissioners Court to license or permit tow truck operators who remove vehicles in unincorporated areas of the county.

Since 1987, when the 70th Legislature granted it special status, Harris County has been regulating tow trucks and storage facilities, specifically those engaged in nonconsent towing in unincorporated areas under law enforcement direction. Among the county sheriff's safety requirements is one specifying that emergency lights must be amber, rather than red and blue. Another requirement prohibits auxiliary stop and tail lamps in or under factory-mounted light bars. In March 2002, the attorney general determined that Harris County has proprietary authority to enforce these regulations, finding no conflict with federal or state law (Opinion No. JC-0481).

DIGEST: CSHB 849 would preclude Harris County from regulating or restricting tow truck lighting beyond the extent allowed by state and federal law. The bill also would prevent any political subdivision from regulating tow truck lighting more restrictively than allowed by state law.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

Tow truck regulation should be uniform across the state. Tow truck operators in the state's largest urban area should not have to contend with two sets of regulations and, consequently, two types of lights, one for Harris County and another for the adjacent counties in which they do business. CSHB 849 would level the playing field, helping ensure uniformity while restoring common sense to tow truck lighting policy in Harris County.

Tow trucks licensed by Harris County must meet various specifications and safety requirements to be eligible for nonconsent tows. The county's lighting restrictions go too far, however, misconstruing the intent of the statute. It is standard practice industry-wide for tow trucks to have light bars installed on their cab roofs containing red, white, blue, and/or amber emergency lights along with additional stop and tail lamps provided by the manufacturers for safety. These lights comply with all applicable standards set forth in U.S. and Texas law. Forcing tow truck operators to install amber emergency lights and remove supplemental lighting is unnecessary and unsafe. Operators must incur additional expenses either to order customized lighting for new trucks or to modify lighting on trucks currently in use.

Officials of Harris County – the only local government in the state exercising regulatory authority over tow trucks – have yet to offer a plausible explanation for these burdensome rules. Urban motorists are used to seeing flashing red lights along roadways; the type of vehicle displaying them does not affect safety. Red lights provide additional warning, not more hazards.

**OPPONENTS
SAY:**

The U.S. Supreme Court has upheld local government regulation of the towing industry in the wake of federal deregulation. The Legislature has seen fit to grant Harris County specific authority to regulate tow trucks. The county, however, regulates only operators performing nonconsent tows under law enforcement direction in unincorporated areas. The county does not issue citations to tow truck operators whose lights do not comply with its ordinances, but it is well within its legal and statutory authority to regulate such lighting. These regulations have served both Harris County motorists and the Sheriff's Department well for the past 15 years, and there is no compelling reason for the Legislature to intervene and change them now.

Restricting the color and number of flashing lights on tow trucks is a safety issue. The ordinances in question are designed to protect passing motorists

who come upon towing situations. Studies show that numerous flashing red lights are dangerously distracting. They might make drivers think there is a police emergency when in fact only the removal of an abandoned vehicle is taking place. Motorists might mistake tow trucks for school buses or emergency vehicles, which also use flashing red lights. Such needless confusion can create safety hazards for motorists as well as for peace officers and the tow truck operators themselves, especially at night or on dimly lit county roads. Amber lights in fewer numbers help distinguish tow trucks from other vehicles.

NOTES: The substitute differs from the bill as introduced by adding sec. 545.306(a) of the Transportation Code, which would apply the bill only to Harris County.