

SUBJECT: Requirements concerning the sale and disposal of abandoned vehicles

COMMITTEE: Transportation — committee substitute recommended

VOTE: 6 ayes — Krusee, Phillips, Callegari, Deshotel, Hamric, Hill

0 nays

3 absent — Casteel, Flores, West

WITNESSES: For — Jeanette Rash, Texas Towing and Storage Association; Steve Smith, Greater Dallas Emergency Wrecker Association

Against — None

BACKGROUND: Transportation Code, sec. 683.011 authorizes law enforcement agencies to seize abandoned motor vehicles and use the agency's resources to remove and store the abandoned vehicle. Sec. 683.034 allows storage facilities to dispose of abandoned motor vehicles after providing proper notice. Sec. 683.031(c) requires that storage facilities report abandoned vehicles to the Department of Public Safety (DPS) and pay a \$5 fee.

DIGEST: CSHB 2630 would grant custody of an abandoned vehicle to law enforcement in the following instances:

- after providing notice to the facility storing the vehicle of law enforcement's intention to dispose of the vehicle;
- after the storage facility had reported the vehicle to law enforcement; or
- if law enforcement had the vehicle in its physical possession.

The bill would increase the fee paid by storage facilities to local law enforcement agencies or DPS when reporting an abandoned vehicle from \$5 to \$10. It also would increase the court filing fee for hearings regarding abandoned vehicles from \$10 to \$20.

The bill would prohibit storage facilities from charging additional unauthorized fees to owners. Storage facilities could dispose of abandoned

vehicles on the 31st day after reporting the vehicle, rather than the 31st day after sending notice.

Hearings on abandoned vehicles would be required to take place within 10 working days after the hearing was requested. Courts would be required to send notices of hearings by registered or certified mail. The burden of proof at a hearing would be on the person requesting the hearing, and reliable hearsay evidence would be admissible. Court decisions from hearings on abandoned vehicles could be appealed. Appeals would be held in a court in the precinct where the storage facility were located rather than the precinct of the location from which the vehicle was removed.

CSHB 2630 would specify that enforcement agencies were able to use their resources to send a notice regarding a vehicle that had been abandoned in a storage facility. Notices sent to vehicle owners or operators would be required to include contact information for the party that authorized the removal of the vehicle and information about the court in which an appeal may be heard. Notices could be published in a newspaper if the owner's contact information could not be determined.

Proceeds from the sale of an abandoned vehicle in a public auction first would be applied to costs associated with providing notice of the sale and costs related to towing and impounding the vehicle.

The bill would take effect on September 1, 2005.

**SUPPORTERS
SAY:**

CSHB 2630 would protect the public by giving more rights to owners of vehicles that are considered abandoned. The bill would allow owners to appeal decisions made at hearings regarding their vehicle and prohibit towing companies from taking advantage of their customers. Many towing companies charge additional fees such as "post-tow hook-up fees," that are not authorized by law. CSHB 2630 would prohibit companies from unfairly charging such fees.

**OPPONENTS
SAY:**

CSHB 2630 would increase fees that storage facilities are required to pay to law enforcement agencies and court fees associated with hearings pertaining to motor vehicles. These fees already are high enough under current law and would be doubled by this bill. Court-related fee increases especially should be applied more cautiously in order to maintain the public's accessibility to the courts.

NOTES:

The committee substitute differs from the original bill in that it would define the instances in which law enforcement would be considered to have custody of an abandoned vehicle. The substitute would change the instances in which notice of an abandoned vehicle could be published in a newspaper. Also, the substitute would prohibit storage facilities from charging additional fees to vehicle owners.

The companion bill, SB 1396 by Carona, has been referred to the Senate Criminal Justice Committee.