

**SUBJECT:** Inspection of automobile dealers and repair shops for stolen motor vehicles

**COMMITTEE:** Transportation — committee substitute recommended

**VOTE:** 6 ayes — Krusee, Callegari, Casteel, Deshotel, Flores, Hamric

0 nays

3 absent — Phillips, Hill, West

**WITNESSES:** None

**BACKGROUND:** Occupations Code, ch. 2305 regulates people who sell used cars and those who own automobile repair shops. An automobile dealer must maintain a register of each used automobile sold or purchased with specific information about the automobile and the person buying or selling it. A repair shop must keep a record of all repairs with a value of more than \$1. These records must be kept for at least one year and must be open for public inspection at all reasonable hours. A register maintained by an automobile dealer must be open to inspection at all times by a peace officer or any person interested in tracing or locating a stolen automobile. Violation of the chapter is an offense punishable by a fine of between \$10 and \$100 dollars. The chapter does not apply to repairs regulated under ch. 2304, which covers nonmechanical repairs.

Finance Code, ch. 348, regulates motor vehicle financing, primarily the sale of motor vehicles on retail installment contracts. It covers any entity that originates a motor vehicle retail installment contract, including car dealerships.

**DIGEST:** CSHB 3221 would require automobile dealers that sell used cars and automobile repair shop owners to consent to entry of the premises and inspection of any document, record, vehicle, or part by certain persons to administer and enforce the chapter during normal business hours or while regulated activities were taking place. If the intent was to trace or locate a motor vehicle at a dealer covered by ch. 348 of the Finance Code, only a Department of Public Safety Officer could enter the premises and conduct the inspection. Otherwise entry and inspection could take place by a member or employee of the Texas Transportation Commission, an

employee of TxDOT, a member of the Public Safety Commission, a DPS officer, or a peace officer who was interested in tracing or locating a stolen motor vehicle. The bill would make the refusal to allow entry or inspection a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

The bill would remove the requirement that these records be made open for public inspection during all reasonable hours.

The bill also would:

- allow a used automobile dealer's register to be maintained in an electronic recordkeeping system;
- require a used automobile dealer to record the vehicle identification number of each automobile bought or sold and the official identification number of the person involved in the transaction;
- replace references to "automobile" in the code with "motor vehicle" and provide a definition of "motor vehicle."

The bill would take effect September 1, 2005, and would apply only to an offense committed on or after that date.

**SUPPORTERS  
SAY:**

CSHB 3221 would enable stolen vehicles more quickly to be traced and located by giving law enforcement officers the ability to enter and inspect the records, vehicles, and parts at car dealers that sell used cars and repair shops. Although these agencies may inspect these records under current statute, they have no authority to compare those records with the actual vehicles or vehicle parts in order to verify the information. Consequently, falsified vehicle records may significantly stall or block a stolen vehicle search. The bill would enable law enforcement officers to ensure the accuracy of those records in order more efficiently and thoroughly to conduct their search. The bill also would enable members and employees of agencies that regulate these entities to inspect their vehicles and parts to ensure that they are properly complying with statute.

The bill would create a proper balance between the needs of law enforcement and the concerns of business owners by specifying that, when searching for a stolen vehicle, only DPS officers could enter and inspect a dealership covered by ch. 348 of the Finance Code. More than most businesses, car dealers rely on their reputations and the public's perception of their trustworthiness in order to make sales. Because officers now

would be able to circulate on the premises to inspect vehicles and vehicle parts, these inspections could be more invasive than previously, and, if not carried out well, could interfere with a dealer's business and image. Consequently, these inspections should be carried out only by properly trained DPS officers. The bill would not interfere with other law enforcement functions and investigations, since it would apply only to stolen vehicle searches. The bill would allow a broader range of persons to inspect repair shops since these businesses more often handle stolen vehicles and because they are much less regulated than dealerships.

The bill also would delete language requiring these records to be available for public inspection to comply with state and federal privacy laws. Opening these records to anyone could result in the release of confidential information because some dealerships integrate this information with other information about a transaction, including sensitive financial information required to be kept confidential under law. Any person concerned about a particular vehicle should contact a law enforcement officer for investigation.

OPPONENTS  
SAY:

CSHB 3221 would remove the ability of citizens to search for their vehicle if stolen. While giving DPS greater authority to inspect for stolen vehicles is useful, the department may not always have the resources to search for every stolen car. It is often individuals, particularly those affected, that provide the investigatory power to scrutinize and ensure compliance with statutes, and the bill should not remove their ability to do so.

OTHER  
OPPONENTS  
SAY:

Improperly conducted stolen vehicle searches could interfere with business at a repair shop just as much as they interfered with business at a dealership. The bill should be amended to require that inspections for stolen vehicles at these businesses may be conducted only by DPS officers.

NOTES:

The committee substitute differs from the bill as filed by:

- removing a provision that would have made an offense a felony if a person had previously been convicted under the chapter;
- removing the requirement that records be made available for public inspection;
- requiring an inspection for a stolen motor vehicle at a dealership to be conducted by a DPS officer;

- allowing a used automobile dealer's register to be maintained in an electronic recordkeeping system; and
- removing a provision stating that a person consents to an entry or inspection by engaging in a covered business.

The companion bill, SB 1746 by Lindsay, has been referred to the Senate Business and Commerce Committee.