

SUBJECT: Allowing impoundment of a vehicle operated without required documents

COMMITTEE: Transportation — favorable, with amendment

VOTE: 9 ayes — Pickett, Phillips, Callegari, Y. Davis, Harper-Brown,
McClendon, Merritt, T. Smith, W. Smith

0 nays

2 absent — Dunnam, Guillen

WITNESSES: For — Bobby Gutierrez, Justices of the Peace and Constable Association
of Texas; (*Registered, but did not testify*: Bill Elkin, Houston Police
Retired Officers Association; Jess Horton, Southwest Tow Operators)

Against — None

BACKGROUND: State law requires vehicle operators to show a valid driver's license and
proof of financial responsibility upon the request of an officer.

DIGEST: HB 3255 would allow a peace officer to impound a vehicle operated by a
person who failed to display a driver's license and did not establish proof
of financial responsibility as required in law. An officer who impounded a
motor vehicle for this reason would have to issue a written explanation for
how the operator could recover the vehicle. A law enforcement agency
could release an impounded vehicle to its owner or operator only if the
person paid all costs for the impound, provided a valid driver's license,
and demonstrated that the person:

- obtained valid financial responsibility for the vehicle;
- was in compliance with state laws governing financial
responsibility on the date the vehicle was impounded; or
- was exempt from requirements of financial responsibility on the
date the vehicle was impounded.

The bill would take effect September 1, 2009, and would apply to an
offense committed after that date.

SUPPORTERS
SAY:

HB 3255 would allow formally a peace officer to impound a vehicle that was in operation without legally required proof of insurance and a valid driver's license. There currently is confusion about the legal extent of a peace officer's ability to impound a vehicle for these offenses under the law. Some law enforcement agencies have promulgated policies specifically authorizing impoundments, while other agencies have operated under the assumption that it is necessary to make a standard arrest and impound a vehicle accordingly. HB 3255 would establish in certain terms a peace officer's ability to impound a vehicle for these violations.

Peace officers should not have to release an uninsured, unlicensed driver, who has just committed a traffic violation and upon release would continue to be a hazard and liability for other drivers. Impounding a vehicle in this case would ensure that the person was not a liability to others and also would spare a law enforcement agency from having to arrest a party who committed a minor offense. Requiring proof of insurance upon impound would prevent an insured driver from getting immediately back into their vehicle uninsured, and would create a strong incentive for that person to purchase a qualified insurance policy.

OPPONENTS
SAY:

HB 3255 would codify a practice that some law enforcement agencies have adopted of impounding the vehicle of a person who is driving without necessary proof of insurance and driver's license. Impounding vehicles for lack of required documents places a significant burden on the person whose car is impounded, since the person is then liable for a variety of fees and must make arrangements to retrieve the vehicle from a storage facility, in addition to facing the standard punishments provided in law.

This practice would not increase the number of people who are driving with all necessary documentation. Instead, impounding vehicles would create a "debtor's prison" by imposing exorbitant fees that increase by day on those least able to afford the payments. An uninsured or unlicensed driver is less likely to be able to afford insurance if he or she has to pay hundreds of dollars in impound fees to retrieve a vehicle.

There is no current requirement that a person have insurance on a vehicle they own, only those they operate. HB 3255 would effectively put that policy in place for those with impounded vehicles, since it would establish no option to have an impounded vehicle towed to an owner's residence or

retrieved by another insured person.