

- SUBJECT:** Repeal of law enforcement costs for vehicles towed for evidentiary reasons
- COMMITTEE:** Homeland Security and Public Safety — favorable, without amendment
- VOTE:** 7 ayes — S. Miller, Fletcher, Beck, Driver, Flynn, Mallory Caraway, Peña  
2 nays — Burnam, Walle  
0 absent
- WITNESSES:** For — Jeanette Rash, Texas Towing & Storage Association; (*Registered, but did not testify*: Rose Goode, Dave Resendez, Texas Towing & Storage Association; Rhonda Hight; Jess Horton, Joann Messina, Southwest Tow Operators)  
Against — None
- BACKGROUND:** Law enforcement has the right to impound a vehicle for the purpose of an evidentiary exam. These vehicles may be held at a government or private facility. The owner may be required to pay for the storage and towing fees if the vehicle is held in a private facility, regardless of whether the owner is charged with a crime.
- In 2005, the Legislature enacted HB 480, which added Code of Criminal Procedure, art. 18.23 requiring law enforcement agencies to pay the cost of towing and storing a vehicle for evidentiary or examination purposes, regardless of whether the vehicle was stored on property owned by the law enforcement agency or a vehicle storage facility. Law enforcement agencies do not have to pay the cost of towing or storing a vehicle for any other purpose, including storage costs that accrued after the law enforcement agency released the vehicle to the owner.
- DIGEST:** HB 3320 would repeal Code of Criminal Procedure, art. 18.23, which requires law enforcement agencies to pay the cost of towing or storing a vehicle for evidentiary or examination purposes.
- The bill also would amend Occupations Code, sec. 2308.205(c) to delete the exception provided by Code of Criminal Procedure, art. 18.23, to the requirement that a towing and storage fee cannot be collected without

prior consent of the vehicle owner or operator. It also would delete the exemption for requirements under Transportation Code, sec. 545.420 (i) that an owner is not permitted to reclaim a vehicle unless all towing and storage fees are paid.

HB 3320 would take effect September 1, 2011, and would apply only to towing and storage charges occurring on or after that date.

**SUPPORTERS  
SAY:**

HB 3320 would restore the situation that prevailed before the law was changed in 2005. Some law enforcement agencies have not always been willing to pay towing and storage fees when a vehicle is held for evidentiary or examination purposes, and the towing companies then must release the vehicles when the owners reclaim them. The companies lose the ability to hold the vehicles for collateral for the fees. They face a Hobson's choice of risking the possibility that the law enforcement agency would call their competitor for future towing services or losing revenue if the law enforcement agency refuses to pay the towing and storage fees on individual vehicles.

HB 3320 would relieve the financial burden placed on local governments when law enforcement agencies require a vehicle to be towed and held for evidentiary purposes. Much like the state, most local governments are also facing budget shortfalls. Even small savings would be helpful.

**OPPONENTS  
SAY:**

Law enforcement agencies should retain responsibility for towing and storing a vehicle otherwise seized in a criminal investigation. Holding a vehicle for evidence can be a lengthy process. Consequently, the towing and storage the fees become prohibitive for the owner to pay and recover the vehicle.

**OTHER  
OPPONENTS  
SAY:**

Owners of vehicles held as part of a probe of criminal activities may be reluctant to claim the vehicle, and the towing and storage yard would be required to keep these vehicles for an indefinite period.