

AN ACT

relating to procedures regarding the removal and storage of vehicles.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 683.011(b), Transportation Code, is amended to read as follows:

(b) A law enforcement agency may use agency personnel, equipment, and facilities or contract for other personnel, equipment, and facilities to remove, preserve, ~~[and]~~ store, send notice regarding, and dispose of an abandoned motor vehicle, watercraft, or outboard motor taken into custody by the agency under this subchapter.

SECTION 2. Section 683.031(c), Transportation Code, is amended to read as follows:

(c) The garagekeeper shall report the abandonment of the motor vehicle to a law enforcement agency with jurisdiction where the vehicle is located or to the Department of Public Safety and shall pay a \$10 ~~[\$5]~~ fee to be used by the law enforcement agency for the cost of the notice required by this subchapter or other cost incurred in disposing of the vehicle. A fee paid to the Department of Public Safety shall be used to administer this chapter.

SECTION 3. Sections 683.034(a), (b), and (e), Transportation Code, are amended to read as follows:

(a) A law enforcement agency shall take into custody an

1 abandoned vehicle left in a storage facility that has not been
2 claimed in the period provided by the notice under Section 683.012.
3 In this section, a law enforcement agency has custody if the agency:

4 (1) has physical custody of the vehicle;

5 (2) has given notice to the storage facility that the
6 law enforcement agency intends to dispose of the vehicle under this
7 section; or

8 (3) has received a report under Section 683.031(c) and
9 the garagekeeper has met all of the requirements of that
10 subsection.

11 (b) The law enforcement agency may use the vehicle as
12 authorized by Section 683.016 or sell the vehicle at auction as
13 provided by Section 683.014. If a vehicle is sold, the proceeds of
14 the sale shall first be applied to a garagekeeper's charges for
15 providing notice regarding the vehicle and for service, towing,
16 impoundment, storage, and repair of the vehicle.

17 (e) If the law enforcement agency does not take the vehicle
18 into custody before the 31st day after the date the vehicle was
19 reported abandoned under Section 683.031 [~~notice is sent under~~
20 ~~Section 683.012~~]:

21 (1) the law enforcement agency may not take the
22 vehicle into custody; and

23 (2) the storage facility may dispose of the vehicle
24 under:

25 (A) Chapter 70, Property Code, except that notice
26 under Section 683.012 satisfies the notice requirements of that
27 chapter; or

(B) Chapter 2303, Occupations Code, if [~~+~~
~~[(i)]~~ the storage facility is a vehicle
storage facility [~~+~~and
~~[(ii)] the vehicle is an abandoned nuisance~~
vehicle].

SECTION 4. Section 685.004, Transportation Code, is amended
to read as follows:

Sec. 685.004. JURISDICTION. [~~(a)~~] A hearing under this
chapter shall be in the justice court having jurisdiction in the
precinct in which the vehicle storage facility is located [~~is~~
~~before the justice of the peace or a magistrate in whose~~
~~jurisdiction is the location from which the vehicle was removed,~~
~~except as provided by Subsection (b)]~~.

~~[(b) In a municipality with a population of 1.9 million or~~
~~more, a hearing under this chapter is before a judge of a municipal~~
~~court in whose jurisdiction is the location from which the vehicle~~
~~was removed.]~~

SECTION 5. Section 685.006, Transportation Code, is amended
to read as follows:

Sec. 685.006. CONTENTS OF NOTICE. [~~(a)~~] The notice under
Section 685.005 must include:

(1) a statement of:

(A) the person's right to submit a request within
14 days for a court hearing to determine whether probable cause
existed to remove the vehicle;

(B) the information that a request for a hearing
must contain; and

(C) any filing fee for the hearing;

(2) the name, address, and telephone number of the towing company that removed the vehicle;

(3) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed; ~~and~~

(4) the name, address, and telephone number of the person, property owner, or law enforcement agency that authorized the removal of the vehicle; and

(5) the name, address, and telephone number of the justice court having jurisdiction in the precinct in which the vehicle storage facility is located ~~[one or more of the appropriate magistrates as determined under Subsection (b)].~~

~~[(b) The notice must include the name, address, and telephone number of:~~

~~[(1) the municipal court of the municipality, if the towing company that removed the vehicle or the vehicle storage facility in which the vehicle was placed is located in a municipality, or~~

~~[(2) the justice of the peace of the precinct in which the towing company or the vehicle storage facility is located, if the towing company that removed the vehicle or the vehicle storage facility in which the vehicle was placed is not located in a municipality.]~~

SECTION 6. Section 685.008, Transportation Code, is amended to read as follows:

Sec. 685.008. FILING FEE AUTHORIZED. The court may charge a filing fee of \$20 ~~[\$10]~~ for a hearing under this chapter.

1 SECTION 7. Section 685.009, Transportation Code, is amended
2 by amending Subsections (a) and (b) and adding Subsection (b-1) to
3 read as follows:

4 (a) A hearing under this chapter shall be held before the
5 10th [~~seventh~~] working day after the date the court receives the
6 request for the hearing.

7 (b) The court shall notify the person who requested the
8 hearing and the person or law enforcement agency that authorized
9 the removal of the vehicle of the date, time, and place of the
10 hearing by registered or certified mail. The notice of the hearing
11 to the person or law enforcement agency that authorized the removal
12 of the vehicle shall include a copy of the request for hearing.

13 (b-1) At a hearing under this section:

14 (1) the burden of proof is on the person who requested
15 the hearing; and

16 (2) hearsay evidence is admissible if it is considered
17 otherwise reliable by the justice of the peace.

18 SECTION 8. Chapter 685, Transportation Code, is amended by
19 adding Section 685.010 to read as follows:

20 Sec. 685.010. APPEAL. An appeal from a hearing under this
21 chapter is governed by the rules of procedure applicable to civil
22 cases in justice court, except that no appeal bond may be required
23 by the court.

24 SECTION 9. Section 2303.152, Occupations Code, is amended
25 by amending Subsection (a) and adding Subsection (e) to read as
26 follows:

27 (a) Notice to the registered owner and the primary

1 lienholder of a vehicle towed to a vehicle storage facility may be
2 provided by publication in a newspaper of general circulation in
3 the county in which the vehicle is stored if:

4 (1) the vehicle is registered in another state;

5 (2) the operator of the storage facility submits to
6 the governmental entity with which the vehicle is registered a
7 written request for information relating to the identity of the
8 registered owner and any lienholder of record;

9 (3) the identity of the registered owner cannot be
10 determined;

11 (4) the registration does not contain an address for
12 the registered owner; or ~~and~~

13 (5) the operator of the storage facility cannot
14 reasonably determine the identity and address of each lienholder.

15 (e) Notice to the registered owner and the primary
16 lienholder of a vehicle towed to a vehicle storage facility may be
17 provided by publication in a newspaper of general circulation in
18 the county in which the vehicle is stored if:

19 (1) the vehicle does not display a license plate or a
20 vehicle inspection certificate indicating the state of
21 registration;

22 (2) the identity of the registered owner cannot
23 reasonably be determined by the operator of the storage facility;
24 or

25 (3) the operator of the storage facility cannot
26 reasonably determine the identity and address of each lienholder.

27 SECTION 10. Section 2303.154, Occupations Code, is amended

by adding Subsection (a-1) to read as follows:

(a-1) If a vehicle is not claimed by a person permitted to claim the vehicle before the 10th day after the date notice is mailed or published under Section 2303.151 or 2303.152, the operator of the vehicle storage facility shall consider the vehicle to be abandoned and send notice of abandonment to a law enforcement agency under Chapter 683, Transportation Code.

SECTION 11. Sections 2303.155(e) and (f), Occupations Code, are amended to read as follows:

(e) The operator of a vehicle storage facility or governmental vehicle storage facility may charge a daily storage fee under Subsection (b):

(1) for not more than five days before the date notice is mailed or published under this subchapter, if the vehicle is registered in this state; [and]

(2) for not more than five days before the date the request for owner information is sent to the appropriate governmental entity as required by this subchapter, if the vehicle is registered in another state; and

(3) for each day the vehicle is in storage after the date the notice is mailed or published until the vehicle is removed and all accrued charges are paid.

(f) The operator of a vehicle storage facility or governmental vehicle storage facility may not charge an additional fee related to the storage of a vehicle other than a fee authorized by this section or a towing fee authorized by Chapter 643, Transportation Code ~~[that is similar to a notification,~~

1 ~~impoundment, or administrative fee].~~

2 SECTION 12. Subchapter D, Chapter 2303, Occupations Code,
3 is amended by adding Section 2303.158 to read as follows:

4 Sec. 2303.158. FORMS OF PAYMENT OF CHARGES. (a) The
5 operator of a vehicle storage facility shall accept payment by an
6 electronic check, debit card, or credit card for any charge
7 associated with delivery or storage of a vehicle.

8 (b) In this section, "vehicle storage facility" includes a
9 governmental vehicle storage facility as defined by Section
10 2303.155.

11 SECTION 13. Section 101.141(a), Government Code, is amended
12 to read as follows:

13 (a) A clerk of a justice court shall collect fees and costs
14 as follows:

15 (1) additional court cost in certain civil cases to
16 establish and maintain an alternative dispute resolution system, if
17 authorized by the commissioners court of a county with a population
18 of at least 2.5 million (Sec. 152.005, Civil Practice and Remedies
19 Code) . . . not to exceed \$3;

20 (2) additional filing fees:

21 (A) to fund Dallas County civil court facilities
22 (Sec. 51.705, Government Code) . . . not more than \$15; and

23 (B) for filing any civil action or proceeding
24 requiring a filing fee, including an appeal, and on the filing of
25 any counterclaim, cross-action, intervention, interpleader, or
26 third-party action requiring a filing fee, to fund civil legal
27 services for the indigent (Sec. 133.153, Local Government

Code) . . . \$2;

(3) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . \$1.50; and

(4) fee for hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 685.008, Transportation Code) . . . \$20 [~~\$10~~].

SECTION 14. Section 101.161, Government Code, is amended to read as follows:

Sec. 101.161. MUNICIPAL COURT FEES AND COSTS. The clerk of a municipal court may collect a fee for a hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 685.008, Transportation Code) . . . \$20 [~~\$10~~].

SECTION 15. Section 101.181, Government Code, is amended to read as follows:

Sec. 101.181. MUNICIPAL COURTS OF RECORD FEES AND COSTS. The clerk of a municipal court of record shall collect the following fees and costs:

(1) from an appellant, a transcript preparation fee (Sec. 30.00014, Government Code) . . . \$25; and

(2) from an appellant in the City of El Paso, an appellate court docket fee (Sec. 30.00147, Government Code) . . . \$25[~~, and~~

~~[(3) fee for hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 685.008, Transportation Code) . . . \$10].~~

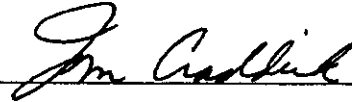
SECTION 16. The changes in law made by this Act apply only

1 to procedures for the removal of a vehicle to a vehicle storage
2 facility or the seizure of a vehicle on or after the effective date
3 of this Act. The removal or seizure of a vehicle before the
4 effective date of this Act is governed by the law in effect
5 immediately before the effective date of this Act, and the former
6 law is continued in effect for that purpose.

7 SECTION 17. This Act takes effect September 1, 2005.

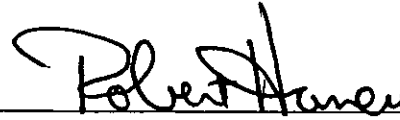


President of the Senate



Speaker of the House

I certify that H.B. No. 2630 was passed by the House on May 12, 2005, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 2630 on May 27, 2005, by a non-record vote.



Chief Clerk of the House

I certify that H.B. No. 2630 was passed by the Senate, with amendments, on May 25, 2005, by the following vote: Yeas 31, Nays 0.



Secretary of the Senate

APPROVED:

17 JUNE 05

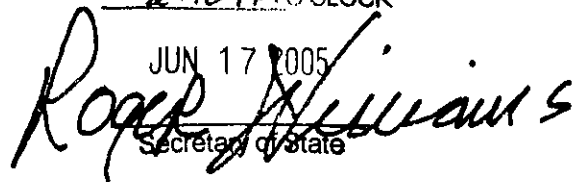
Date



Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2:10 PM O'CLOCK

JUN 17 2005



Secretary of State