

BILL ANALYSIS

C.S.H.B. 2976

By: Frullo

Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties call for additional recourse for parking facilities in relocating vehicles to accommodate maintenance or construction of the parking facility. Additionally, these parties contend that the current process through which operators of vehicles with expired registration stickers located in a parking facility are notified of their violation does not adequately account for vehicles operated by someone other than the person to whom the vehicle is registered. C.S.H.B. 2976 seeks to address these issues by providing for the relocation of certain vehicles under the direction of a parking facility owner and by providing an alternative means of notification for a vehicle with an expired registration sticker located in a parking facility.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 3 of this bill.

ANALYSIS

C.S.H.B. 2976 amends the Occupations Code to include among the vehicles a person may not leave unattended on a parking facility a vehicle that is parked on the parking facility in violation of a contractual agreement or the parking rules or policies of the parking facility. The bill requires the Texas Commission of Licensing and Regulation to adopt rules authorizing a towing company that makes a nonconsent tow from a parking facility to tow the vehicle to another location on the same parking facility under the direction of the parking facility owner, a parking facility authorized agent, or a peace officer. The bill requires the written notice given to the owner or operator of a vehicle that does not display an unexpired license plate or registration insignia informing the owner or operator that the vehicle will be towed from the facility at the vehicle owner's or operator's expense if it is not removed from the facility per a provision of a contract providing for the towing from a parking facility of such a vehicle to state that the vehicle does not display an unexpired license plate or registration insignia; that the vehicle will be towed at the expense of the owner or operator of the vehicle if the vehicle does not display an unexpired license plate or registration insignia; and a telephone number that is answered 24 hours a day to enable the owner or operator of the vehicle to locate the vehicle. The bill requires such a notice, if the notice is neither delivered in person to the owner or operator nor sent by certified mail, to be attached to the vehicle's front windshield, to the vehicle's driver's side window, or, if the vehicle has no front windshield or driver's side window, to a conspicuous part of the vehicle.

EFFECTIVE DATE

September 1, 2018.

85R 26175

17.115.424

Substitute Document Number: 85R 22075

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2976 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 2308.002, Occupations Code, is amended by adding Subdivision (5-b) and amending Subdivision (13) to read as follows:

(5-b) "Multiunit complex" has the meaning assigned by Section 92.151, Property Code.

(13) "Unauthorized vehicle" means a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner. The term includes a vehicle parked on the parking facility of a multiunit complex in violation of the parking rules or policies of the multiunit complex.

SECTION 2. The heading to Section 2308.205, Occupations Code, is amended.

SECTION 3. Section 2308.205, Occupations Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Subsection (a-1), a [A] towing company that makes a nonconsent tow shall tow the vehicle to a vehicle storage facility that is operated by a person who holds a license to operate the facility under Chapter 2303, unless the towing company agrees to take the vehicle to a location designated by the vehicle's owner.

(a-1) A towing company that makes a nonconsent tow from the parking facility of a multiunit complex may tow the vehicle to another location on the same parking facility under the direction of:

- (1) the parking facility owner;
- (2) a parking facility authorized agent; or
- (3) a peace officer.

SECTION 4. Sections 2308.251(a) and (c), Occupations Code, are amended to read as follows:

(a) A person [~~The owner or operator of a vehicle~~] may not leave unattended on a parking facility a vehicle that:

- (1) is in or obstructs a vehicular traffic aisle, entry, or exit of the parking facility;

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 2308.002(13), Occupations Code, is amended to read as follows:

(13) "Unauthorized vehicle" means a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner. The term includes a vehicle parked on a parking facility in violation of a contractual agreement or the parking rules or policies of the parking facility.

SECTION 2. Substantially the same as introduced version.

SECTION 3. Section 2308.205, Occupations Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Subsection (a-1), a [A] towing company that makes a nonconsent tow shall tow the vehicle to a vehicle storage facility that is operated by a person who holds a license to operate the facility under Chapter 2303, unless the towing company agrees to take the vehicle to a location designated by the vehicle's owner.

(a-1) The commission shall adopt rules authorizing a towing company that makes a nonconsent tow from a parking facility to tow the vehicle to another location on the same parking facility under the direction of:

- (1) the parking facility owner;
- (2) a parking facility authorized agent; or
- (3) a peace officer.

SECTION 4. Sections 2308.251(a) and (c), Occupations Code, are amended to read as follows:

(a) A person [~~The owner or operator of a vehicle~~] may not leave unattended on a parking facility a vehicle that:

- (1) is in or obstructs a vehicular traffic aisle, entry, or exit of the parking facility;

- (2) prevents a vehicle from exiting a parking space in the facility;
 - (3) is in or obstructs a fire lane marked according to Subsection (c);
 - (4) does not display the special license plates issued under Section 504.201, Transportation Code, or the disabled parking placard issued under Chapter 681, Transportation Code, for a vehicle transporting a disabled person and is in a parking space that is designated for the exclusive use of a vehicle transporting a disabled person; [øø]
 - (5) is leaking a fluid that presents a hazard or threat to persons or property; or
 - (6) is parked on the parking facility of a multiunit complex in violation of the parking rules or policies of the multiunit complex.
- (c) If a government regulation governing the marking of a fire lane applies to a parking facility, a fire lane in the parking facility must be marked as provided by the regulation. If a government regulation on the marking of a fire lane does not apply to the parking facility, all curbs of fire lanes must be painted red and be conspicuously and legibly marked with the warning "FIRE LANE--TOW AWAY ZONE" in white letters at least three inches tall, at intervals not exceeding 50 feet.

SECTION 5. Sections 2308.253(c), (d), and (e), Occupations Code, are amended.

No equivalent provision.

SECTION 6. Section 2308.253(e), Occupations Code, as amended by this Act, applies only to a contract, including a lease or rental agreement, entered into on or after the effective date of this Act. A contract entered into before that date is governed by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2018.

- (2) prevents a vehicle from exiting a parking space in the facility;
 - (3) is in or obstructs a fire lane marked according to Subsection (c);
 - (4) does not display the special license plates issued under Section 504.201, Transportation Code, or the disabled parking placard issued under Chapter 681, Transportation Code, for a vehicle transporting a disabled person and is in a parking space that is designated for the exclusive use of a vehicle transporting a disabled person; [øø]
 - (5) is leaking a fluid that presents a hazard or threat to persons or property; or
 - (6) is parked on the parking facility in violation of a contractual agreement or the parking rules or policies of the parking facility.
- (c) If a government regulation governing the marking of a fire lane applies to a parking facility, a fire lane in the parking facility must be marked as provided by the regulation. If a government regulation on the marking of a fire lane does not apply to the parking facility, all curbs of fire lanes must be painted red and be conspicuously and legibly marked with the warning "FIRE LANE--TOW AWAY ZONE" in white letters at least three inches tall, at intervals not exceeding 50 feet.

SECTION 5. Same as introduced version.

SECTION 6. The Texas Commission of Licensing and Regulation shall adopt rules to implement Section 2308.205(a-1), Occupations Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.