

SUBJECT: Allowing municipalities to use unmarked cars to enforce environmental laws

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 9 ayes — Carter, Bailey, Burnam, Callegari, Edwards, Ehrhardt, Hill, E. Jones, Najera
0 nays

WITNESSES: For — Tom Collins, City of Houston; *Registered but not testify:* Beatrice Link, City of Houston
Against — None

BACKGROUND: Transportation Code, sec. 721.004 requires municipalities to inscribe their vehicles with the name of the municipality and the department or office that has custody of the vehicle. Sec. 721.005 exempts from this requirement vehicles used by police departments, magistrates, or medical examiners to perform their official duties.

DIGEST: HB 630 would amend Transportation Code, sec. 721.005(a) to allow municipalities to authorize municipal code enforcement officers designated to enforce environmental laws to use unmarked vehicles when performing their official duties.
HB 630 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

SUPPORTERS SAY: HB 630 would help strengthen the enforcement of local environmental codes by making it easier for municipalities to monitor and detect environmental violations as they occur. Because of the difficulty of definitively associating an environmental crime, such as illegal dumping, with the perpetrator, it is important to detect these crimes as they are committed. At present, however, a person about to dump waste illegally in a vacant lot or along a road may be warned away by the presence of a marked municipal vehicle.
By using unmarked cars, municipal code enforcement officers could patrol or conduct surveillance in areas where they have been informed that routine

dumping is occurring and could gather evidence that would allow prosecution of these crimes. For example, in Houston, municipal code enforcement officers used unmarked cars to enforce environmental codes from 1992 until 1997, when the city discovered that it was prohibited from using unmarked cars for this purpose. During those years, environmental investigations resulted in 118 convictions; since 1998, the number of convictions has dropped to 13.

Besides enabling cities to maintain a cleaner, healthier environment, this bill also could help reduce municipalities' cleanup costs by enhancing enforcement against those who dump waste illegally. The City of Houston reports that its cleanup costs have increased by more than 600 percent since 1997, when it stopped using unmarked vehicles.

Allowing municipal code enforcement officers to use unmarked cars is the most practical way to address this problem. Although police also have the authority to enforce environmental laws, they do not have the resources to investigate these crimes, which is why cities have code enforcement officers in the first place. Surveillance cameras are expensive, are limited to a single site, and do not always capture a clear picture. Concerns that municipal code enforcement officers in unmarked vehicles could be placed at increased risk are baseless, as these officers may call on the police for backup as necessary. The City of Houston reports that it had no serious incidents during the years it used unmarked cars to catch environmental code violators.

The bill explicitly would limit the expanded city authority to use unmarked vehicles to municipal code enforcement officers designated to enforce environmental laws. It is not intended to apply to any other municipal code enforcement officer. The bill would not provide an excuse for allowing all code enforcement officers to use unmarked cars, since violations of most other city codes, such as building codes, can be traced to a specific person or business, making use of an unmarked vehicle unnecessary as an enforcement tool.

OPPONENTS
SAY:

HB 630 would increase the government's authority to monitor its citizens' activities covertly by using unmarked vehicles. This authority, which could open the door for entrapment, should not be expanded beyond that now granted to police, who already can enforce environmental codes. Moreover, the bill might be interpreted to allow any municipal code enforcement officer to use an unmarked car as long as that officer also was designated to enforce environmental codes.

OTHER
OPPONENTS
SAY:

HB 630 could increase risks to the personal safety of municipal code enforcement officers. Illegal dumping often occurs in remote areas or areas screened from view, and environmental code violators could turn violent if they realized they had been monitored or if they were approached by enforcement officers in a vehicle that was not clearly marked. Surveillance cameras could offer an alternative enforcement method with the same benefit of detecting these crimes as they are committed while avoiding the added risk to officers.