

BILL ANALYSIS

Senate Research Center
78R15321 JD-F

C.S.H.B. 849
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Business & Commerce
5/19/2003
Committee Report (Substituted)

DIGEST AND PURPOSE

C.S.H.B. 849 establishes fees, penalties, and insurance requirements relating to tow trucks.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2303.151(d), Occupations Code, to require a notice under this section to be sent by certified mail, return receipt requested or electronic certified mail, as well as fulfill certain other criteria.

SECTION 2. Amends Section 2303.155(b), Occupations Code, to increase the impoundment fee, authorized under certain circumstances, from \$10 to \$20.

SECTION 3. Amends Section 545.306(a), Transportation Code, to prohibit a tow truck ordinance in a county with a population of 3.3 million or more from regulating or restricting the use of lighting equipment more than the extent allowed by state and federal law.

SECTION 4. Amends Section 643.053, Transportation Code, to require an application fee of \$100 plus a \$10 fee for each vehicle requiring registration other than a tow truck or a \$25 fee for each tow truck the motor carrier proposes to operate, as well as other requirements.

SECTION 5. Amends Sections 643.057(a), (b), and (d), Transportation Code, as follows:

(a) Makes a conforming change.

(b) Provides that a motor carrier is not required to pay the applicable registration fee under Subsection (a) for a vehicle for which the same fee is required and that replaces a vehicle for which the fee has been paid.

(d) Prohibits the Texas Department of Transportation (TxDOT) from collecting more than \$10 in equipment registration fees for a vehicle other than a tow truck registered under both this subchapter and Chapter 645 (Single State Registration) or more than \$25 if the vehicle is a tow truck.

SECTION 6. Amends Section 643.058(c), Transportation Code, to make a conforming change.

SECTION 7. Amends Section 643.061(b), Transportation Code, to make conforming changes.

SECTION 8. Amends Section 643.101, Transportation Code, by adding Subsections (d) and (e), as follows:

(d) Requires the owner of a tow truck that is used to perform nonconsent tows, as defined by Section 643.201, to maintain on-hook cargo insurance in the amount of at least \$50,000 per truck.

(e) Requires any insurance required for a commercial motor vehicle, unless state law permits a commercial motor vehicle to be self insured, to be obtained from certain types of insurers.

SECTION 9. Amends Section 643.201(a), Transportation Code, to include the exception that a political subdivision is prohibited from issuing a more restrictive regulation for the use of lighting equipment on a tow truck than is imposed by this title.

SECTION 10. Amends Subchapter E, Chapter 643, Transportation Code, by adding Sections 643.203-643.208, as follows:

Sec. 643.203. REGULATION BY POLITICAL SUBDIVISIONS OF FEES FOR NONCONSENT TOWS. Authorizes the governing body of a political subdivision to regulate the fees that are authorized to be charged or collected in connection with a nonconsent tow originating in the territory of the political subdivision.

Sec. 643.204. TOWING FEE STUDIES. (a) Requires the governing body of a political subdivision that regulates nonconsent tow fees to establish procedures by which a towing company is authorized to request that a towing fee study be performed.

(b) Requires the governing body of a political subdivision to establish or amend the allowable fees for nonconsent tows at amounts that represent the fair value of the services of a towing company and are reasonably related to any financial or accounting information provided to the governing body.

Sec. 643.205. FEES FOR NONCONSENT TOWS IN OTHER AREAS. (a) Authorizes a towing company, in an area in which no political subdivision regulates the fees that may be charged or collected for a nonconsent tow from a private property, to charge and collect a fee for the tow of a motor vehicle carrier from private property in an amount not to exceed an amount equal to 150 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.

(b) Authorizes a towing company to charge and collect a fee for the for the [sic] tow of a vehicle, with a gross vehicle weight rating in excess of 26,000 pounds, from private property in an amount not to exceed an amount equal to 125 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.

Sec. 643.206. STORAGE OF TOWED VEHICLES. (a) Requires a towing company that makes a nonconsent tow to 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 (Vehicle Storage Facilities), Occupations Code.

(b) Provides that a storage or notification fee imposed in connection with a motor vehicle towed to a vehicle storage facility is governed by Chapter 2303 (Vehicle Storage Facilities), Occupations Code.

(c) Prohibits a fee from being charged or collected without the prior written consent of the vehicle owner or operator, except as provided by this chapter or Chapter 2303, Occupations Code.

Sec. 643.207. REQUIRED FILING. (a) Requires a towing company, before January 31 of each year, to file with TxDOT a schedule showing each towing fee that the towing company charges or collects in connection with a nonconsent tow.

(b) Requires the fee to be reported to TxDOT by the towing company before the 30th day after the effective date of the change, if a political subdivision begins regulating nonconsent tow fees.

(c) Requires any changes in nonconsent tow fees regulated by a political subdivision to be reported to TxDOT by the towing company before the 30th day after the effective date of the change.

(d) Requires TxDOT to make towing fee schedules available on its Internet website. Requires TxDOT to make no determination as to the reasonableness of a towing fee schedule.

Sec. 643.208. REQUIRED POSTING. Requires all towing and storage fees to be posted at the licensed vehicle storage facility to which the motor vehicle has been delivered and to be posted in view of the person who claims the vehicle.

SECTION 11. Amends Section 643.252(a), Transportation Code, to make conforming and nonsubstantive changes.

SECTION 12. Amends the heading to Section 643.253, Transportation Code, to read as follows:

Sec. 643.253. OFFENSES AND PENALTIES.

SECTION 13. Amends Section 643.253, Transportation Code, by amending Subsection (c) and adding Subsections (d) - (f), as follows:

(c) References the provisions of Subsection (e) from the classification of an offense under this sections as a Class C misdemeanor.

(d) Sets forth the activities that constitute an offense.

(e) Provides that an offense under Subsection (d) is a misdemeanor punishable by a fine of not less than \$200 or more than \$1,000 per violation.

(f) Authorizes a peace officer to issue a citation for a violation under this section.

SECTION 14. Amends Section 683.001, Transportation Code, by adding Subdivisions (9) and (10) to define “abandoned nuisance vehicle” and “vehicle storage facility.”

SECTION 15. Amends Section 683.012, Transportation Code, by adding Subsection (e) to provide that a law enforcement agency is not required to send a notice, as otherwise required by Subsection (a), if the agency has received notice from a vehicle storage facility that an application has or will be submitted to TxDOT for the disposal of the vehicle.

SECTION 16. Amends Section 683.034(e), Transportation Code, to authorize the storage facility to dispose of the vehicle under Chapter 2303 (Vehicle Storage Facilities), Occupations Code, under certain circumstances, if the law enforcement agency does not take the vehicle into custody before the 31st day after the date notice is sent under Section 683.012.

SECTION 17. Amends Sections 685.009(c) and (e), Transportation Code, as follows:

(c) Sets forth the issues, rather than the sole issue, in a hearing under this chapter.

(e) Authorizes the court to award an amount equal to the amount that the towing charge exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303 (Vehicle Storage Facilities), Occupations Code, as well as certain other awards.

SECTION 18. (a) Effective date: September 1, 2003.

(b) and (c) Make application of this Act prospective.