

Robert E. Talton



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District 144  
House of Representatives

January 13, 2004

RECEIVED  
JAN 15 2004  
OPINION COMMITTEE

RQ-0164-GA

The Honorable Greg Abbott  
Texas Attorney General  
Opinions Committee  
P.O. Box 12548  
Austin, Texas 78711-2548

FILE # ML-43428-04  
I.D. # 43428

Dear General Abbott:

By this letter, I request an opinion as to whether a peace officer may select a towing company and order the removal of a temporarily disabled vehicle that is creating a traffic hazard on a public roadway to a location other than a vehicle storage facility while still allowing the political subdivision to regulate the tow fee.

Obviously, if the driver consents then there is no problem. The problem is when the driver has left the disabled vehicle and the peace officer must remove the traffic hazard by a nonconsent tow as defined in HB849 (78th Regular Session.) The conflict seems to arise when §545.305 of the Transportation Code allows the vehicle to be removed to locations other than a storage facility and §643.206(a) generally says that a tow company making a nonconsent tow "shall tow the vehicle to a vehicle storage facility."

Apparently, the City of Houston has taken the position that all nonconsent tows must be taken to a vehicle storage facility.

Due to the importance of resolving this issue, I ask that this request be expedited. Thank you very much.

Sincerely,

A handwritten signature in cursive script that reads "Robert E. Talton".

Robert E. Talton  
State Representative

RET:ch  
cc: Ms. Stacey Schiff

