



TEXAS DEPARTMENT OF LICENSING AND REGULATION

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February 13, 2015

FEB 20 2015
OPINION COMMITTEE

FILE # ML-47703-15
I.D. # 47703

RQ-0014-KP

The Honorable Ken Paxton
Attorney General, State of Texas
ATTN: Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

Re: Impoundment of Vehicles for Lack of Financial Responsibility

Dear Attorney General Paxton:

Occupations Code Chapters 2303 and 2308 establish a statutory scheme for the regulation of towing and storage of motor vehicles in Texas. I write to you asking whether or not municipalities or local law enforcement agencies are authorized to impound a motor vehicle for lack of financial responsibility and to condition release of that vehicle on presentation of valid liability insurance.

I present this question to you because members of the Towing, Storage and Booting Advisory Board, which includes two law enforcement members, are concerned that:

- A number of Texas municipalities have adopted city ordinances providing for the impoundment of vehicles by local law enforcement for failure to maintain liability insurance or other forms of financial responsibility pursuant to Chapter 601, Transportation Code.
• Law enforcement agencies have contracts with licensed Vehicle Storage Facilities for the storage of these vehicles as well as other vehicles impounded by law enforcement. When dealing with law enforcement impounded vehicles, Vehicle Storage Facilities are acting as an agent of the law enforcement agency.
• The contracts require the Vehicle Storage Facility, as an agent of the law enforcement agency, to comply with local ordinances and law enforcement directives. Therefore, when acting as the agent of law enforcement in regards to vehicles impounded for lack insurance/financial responsibility, a Vehicle Storage Facility will require proof of insurance/financial responsibility prior to release.

Legislative History

House Bill 718, 79th Legislature, Regular Session, would have authorized law enforcement to impound a vehicle involved in an accident and to condition release on compliance with insurance requirements. House Bill 718 did not pass. See Attachment 1. A similar bill, House Bill 1047, 82nd Legislature, Regular Session was introduced but likewise did not pass. See Attachment 2. In the same 82nd Legislature, Regular Session, House Bill 2686 was introduced and also did not pass. See Attachment 3. Finally, in the upcoming 84th Legislature, Regular Session, House Bill 533 has been filed and attempts to authorize the impoundment of a motor vehicle of a person involved in an accident or for violation of any traffic offence and who does not maintain financial responsibility. See Attachment 4.

Mike Arismendez, Chair - Littlefield, Texas
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LuAnn Morgan - Midland, Texas
Fred Moses - Plano, Texas
Catherine Rodewald - Frisco, Texas
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The Honorable Ken Paxton

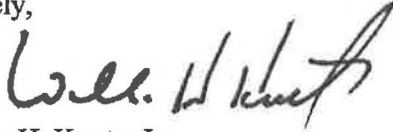
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The question presented is whether or not municipalities or local law enforcement agencies may impound motor vehicles for failure to maintain financial responsibility.

If you have questions or need additional information, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "W. H. Kuntz, Jr.", written in a cursive style.

William H. Kuntz, Jr.

Executive Director

Copy: CJ Tredway, Tredway Advocacy, 1801 Lavaca Street, Suite 7A, Austin, Texas 78701
Cheri Huddleston, Hance Scarborough, LLP, 400 W. 15th - Suite 950, Austin, TX 78701