

TRANSPORTATION CODE

CHAPTER 685. RIGHTS OF OWNERS AND OPERATORS OF STORED VEHICLES

Sec. 685.001. DEFINITIONS. In this chapter:

(1) "Vehicle storage facility" has the meaning assigned by Chapter 2303, Occupations Code.

(2) "Parking facility," "towing company," and "vehicle" have the meanings assigned by Section 684.001.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.159(a), eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.840, eff. Sept. 1, 2003.

Sec. 685.002. PAYMENT OF COST OF REMOVAL AND STORAGE OF VEHICLE. (a) If in a hearing held under this chapter the court finds that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person who requested the hearing shall pay the costs of the removal and storage.

(b) If in a hearing held under this chapter the court does not find that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person or law enforcement agency that authorized the removal shall:

(1) pay the costs of the removal and storage; or

(2) reimburse the owner or operator for the cost of the removal and storage paid by the owner or operator.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.159(a), eff. Sept. 1, 1997.

Sec. 685.003. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO HEARING. The owner or operator of a vehicle that has been removed and placed in a vehicle storage facility without the consent of the owner or operator of the vehicle is entitled to a hearing on whether probable cause existed for the removal and placement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.159(a), eff. Sept. 1, 1997.

Sec. 685.004. JURISDICTION. A hearing under this chapter shall be in the justice court having jurisdiction in the precinct in which the vehicle storage facility is located.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.159(a), eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 669, Sec. 144, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 737, Sec. 4, eff. Sept. 1, 2005.

Sec. 685.005. NOTICE TO VEHICLE OWNER OR OPERATOR. (a) If before a hearing held under this chapter the owner or operator of a vehicle pays the costs of the vehicle's removal or storage, the towing company or vehicle storage facility that received the payment shall at the time of payment give the owner or operator written notice of the person's rights under this chapter.

(b) The operator of a vehicle storage facility that sends a notice under Subchapter D, Chapter 2303, Occupations Code, shall include with that notice a notice of the person's rights under this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.159(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.841, eff. Sept. 1, 2003.

Sec. 685.006. CONTENTS OF NOTICE. The notice under Section 685.005 must include:

(1) a statement of:

(A) the person's right to submit a request within 14 days for a court hearing to determine whether probable cause existed to remove the vehicle;

(B) the information that a request for a hearing must contain; and

(C) any filing fee for the hearing;

(2) the name, address, and telephone number of the towing company that removed the vehicle;

(3) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed;

(4) the name, address, and telephone number of the person, property owner, or law enforcement agency that authorized the removal of the vehicle; and

(5) the name, address, and telephone number of the justice court having jurisdiction in the precinct in which the vehicle storage facility is located.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.159(a), eff. Sept.

1, 1997. Amended by Acts 2005, 79th Leg., ch. 737, Sec. 5, eff. Sept. 1, 2005.

Sec. 685.007. REQUEST FOR HEARING. (a) Except as provided by Subsection (c), a person entitled to a hearing under this chapter must deliver a written request for the hearing to the court before the 14th day after the date the vehicle was removed and placed in the vehicle storage facility, excluding Saturdays, Sundays, and legal holidays.

(b) A request for a hearing must contain:

(1) the name, address, and telephone number of the owner or operator of the vehicle;

(2) the location from which the vehicle was removed;

(3) the date when the vehicle was removed;

(4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal;

(5) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed;

(6) the name, address, and telephone number of the towing company that removed the vehicle;

(7) a copy of any receipt or notification that the owner or operator received from the towing company or the vehicle storage facility; and

(8) if the vehicle was removed from a parking facility:

(A) one or more photographs that show the location and text of any sign posted at the facility restricting parking of vehicles; or

(B) a statement that no sign restricting parking was posted at the parking facility.

(c) If notice was not given under Section 685.005, the 14-day deadline for requesting a hearing under Subsection (a) does not apply, and the owner or operator of the vehicle may deliver a written request for a hearing at any time.

(d) A person who fails to deliver a request in accordance with Subsection (a) waives the right to a hearing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Renumbered from V.T.C.A., Transportation Code Sec. 685.005 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.159(a), eff. Sept. 1, 1997.

Sec. 685.008. FILING FEE AUTHORIZED. The court may charge a filing fee of \$20 for a hearing under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Renumbered from V.T.C.A., Transportation Code Sec. 685.006 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.159(a), eff. Sept. 1, 1997; Acts 2005, 79th Leg., ch. 737, Sec. 6, eff. Sept. 1, 2005.

Sec. 685.009. HEARING. (a) A hearing under this chapter shall be held before the 10th working day after the date the court receives the request for the hearing.

(b) The court shall notify the person who requested the hearing and the person or law enforcement agency that authorized the removal of the vehicle of the date, time, and place of the hearing by registered or certified mail. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.

(b-1) At a hearing under this section:

(1) the burden of proof is on the person who requested the hearing; and

(2) hearsay evidence is admissible if it is considered otherwise reliable by the justice of the peace.

(c) The issues in a hearing under this chapter are:

(1) whether probable cause existed for the removal and placement of the vehicle;

(2) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized by the political subdivision under Section 643.201 or 643.203;

(3) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized under Section 643.204 or 643.205; or

(4) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount filed with the department under Section 643.207.

(d) The court shall make written findings of fact and a conclusion of law.

(e) The court may award:

(1) court costs to the prevailing party;
(2) the reasonable cost of photographs submitted under Section 685.007(b)(8) to a vehicle owner or operator who is the prevailing party; and

(3) 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, Occupations Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Renumbered from V.T.C.A., Transportation Code Sec. 685.007 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.159(a), eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1034, Sec. 17, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 737, Sec. 7, eff. Sept. 1, 2005.

Sec. 685.010. APPEAL. An appeal from a hearing under this chapter is governed by the rules of procedure applicable to civil cases in justice court, except that no appeal bond may be required by the court.

Added by Acts 2005, 79th Leg., ch. 737, Sec. 8, eff. Sept. 1, 2005.