

CHAPTER 679

S.B. No. 919

AN ACT

relating to the authority of a municipality to provide for administrative adjudication of violations of city ordinances relating to parking and stopping of vehicles; providing civil penalties and for appeals.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Title 116, Revised Statutes, as amended, is amended by adding Article 6701d-24 to read as follows:

*Art. 6701d-24. ADMINISTRATIVE ADJUDICATION OF PARKING OFFENSES*

*Sec. 1. APPLICATION. A municipality may declare the violation of city ordinances relating to parking and stopping vehicles to be civil offenses and prescribe civil fines pursuant to the procedures for administrative adjudication as provided by this article.*

*Sec. 2. ADOPTION OF ORDINANCE. (a) A municipality may adopt an ordinance establishing an administrative adjudication hearing procedure. The ordinance must provide:*

(1) a period for persons charged with violating a parking or stopping ordinance to have a hearing; and

(2) for appointment of hearing officers who have authority to administer oaths and to issue orders compelling the attendance of witnesses and the production of documents.

(b) An order compelling the attendance of witnesses or the production of documents may be enforced by a municipal court.

**Sec. 3. PRESUMPTION OF OWNERSHIP.** In an administrative adjudication of an offense under this article, it is presumed that the registered owner of the motor vehicle that is the subject of the administrative hearing is the person who parked or stopped the vehicle at the time and place of the offense charged, and that a State Department of Highways and Public Transportation computer-generated record of the registered vehicle owner is *prima facie* evidence of its contents.

**Sec. 4. HEARING.** (a) The citation or summons must provide information as to the time and place of an administrative adjudication hearing. The failure of any person charged with an offense to appear at the hearing is considered an admission of liability for the charged offense. The citation or summons must contain a notification that the person charged with a parking or stopping offense has the right of an *instanter* hearing, which the issuing peace officer or authorized parking enforcement agent shall not be required to attend. The original or any copy of the summons or citation is a record kept in the ordinary course of business of the municipality and is rebuttable proof of the facts it contains.

(b) The hearing officer shall issue an order stating whether or not the person charged is liable for violation of the parking or stopping ordinance and the amount of any fine, costs, or fee assessed against him. The order may be filed with the clerk or secretary of the city.

**Sec. 5. ENFORCEMENT.** An order filed under Subsection (b) of Section 4 of this article may be enforced by:

(1) impounding the vehicle; however, no vehicle may be impounded unless the offender has committed three or more offenses in any calendar year;

(2) placing a device that prohibits movement of a motor vehicle on the vehicle that is the subject of the order filed;

(3) added fine if not paid within a specified time;

(4) denial of parking permits; or

(5) refusing to allow the registration of the vehicle as provided by Subsection (a-3), Section 2, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-2, Vernon's Texas Civil Statutes).

**Sec. 6. RECORDS.** An order or decision of a hearing officer filed with the clerk or secretary of the city must be kept in a separate index and file. These orders or decisions may be recorded using computer printouts, microfilm, microfiche, or other similar data processing techniques.

**Sec. 7. FINES, COSTS, AND FEES.** The ordinance must provide for the amount and disposition of civil fines, costs, and fees.

**Sec. 8. APPEAL.** (a) A person determined by the hearing officer to be in violation of a parking or stopping ordinance may appeal this determination to a municipal court. The appeal is instituted by filing, not later than the 30th day after the filing of the hearing officer's order, a petition with the clerk of the court along with payment of the costs required by law for municipal court.

(b) After filing a petition for appeal, the municipal clerk shall schedule a hearing and notify all parties of the date, time, and place of the hearing.

(c) Service of notice of appeal under this section does not stay the enforcement and collection of the judgment unless the person who files the appeal posts bond before filing notice of appeal with the agency of the municipality designated by ordinance to accept payments for violations of parking and stopping ordinances.

*Sec. 9. This article shall apply to any city having a population in excess of 200,000 according to the most recent federal census which operates under a council-manager form of government.*

SECTION 2. This Act takes effect September 1, 1987, and applies only to parking or stopping offenses that occur on or after that date. An offense that occurs before the effective date of this Act is governed by the law in effect when the offense occurred and the former law is continued in effect for that purpose. For purposes of this section, an offense occurs before the effective date of this Act if any element of the offense occurs before that date.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 28, 1987, by a viva-voce vote; and that the Senate concurred in House amendment on May 28, 1987, by a viva-voce vote. Passed the House, with amendment, on May 22, 1987, by a non-record vote.

Approved June 19, 1987.

Effective Sept. 1, 1987.