

SERVICE SOLUTIONS SUCCESS



El Paso Police Department

Impounding Uninsured Vehicles

July 7, 2009



Ordinance Amending Title 12

An ordinance amending Title 12, (Vehicles and Traffic) to amend Chapter 12.08 (Administration and Enforcement), Section 12.0 8.220 (Impounding Vehicles), of the El Paso Municipal Code by adding subsection 12.0 8.220. A.21, authorizing a police officer to impound a motor vehicle stopped for a traffic violation if the vehicle's owner or operator fails to show evidence of financial responsibility.



The Issues

- The Insurance Research Council estimates that U. S. drivers have a 14% chance of being hit by an uninsured driver.
- Texas is ranked 9th in overall numbers of uninsured drivers.
- It is estimated that 1 out of every 5 vehicles in Texas is uninsured with even higher percentages along the border with Mexico.
- The EPPD issued 51,238 citations for violations of the Texas Motor Vehicle Safety Responsibility Act in 2008.
- The EPPD investigated over 21,000 motor vehicle accidents in 2008 and 15% of the vehicles failed to comply with the Texas Motor Vehicle Safety Responsibility Act.



The Real Issues

- 2007 Census estimates we have nearly 200,000 residents commuting to work in a vehicle on a daily basis.
- Using Texas estimates, this means we have nearly 40,000 vehicles on our roadways today that do not comply with the Texas Motor Vehicle Safety Responsibility Act.
- This is not only a violation of state law but creates a substantial financial burden on other motorists.
- In El Paso during 2008, 15% of the drivers involved in accidents with injuries did not comply with the Texas Motor Vehicle Safety Responsibility Act.



The Law

- Texas passed its Motor Vehicle Safety Responsibility Act in 1981. The current minimum liability limits are \$25,000 for each injured person, up to a total of \$50,000 per accident, and \$25,000 for property damage per accident. This basic coverage is called “25/50/25” coverage.
- It is the intention of the Texas Legislature and the Courts that all motorists carry liability insurance to pay for damages caused to other motorists.
- Texas law requires an operator of a motor vehicle to have a requisite amount, set in statute, of financial responsibility for motor vehicle liability.
- The law further provides that evidence of compliance with these requirements is to be shown to a peace officer on the officer's request.



The Trends

- Several large cities have implemented towing policies including Atlanta, Baltimore, Chicago, and Philadelphia. Each of the cities impound uninsured vehicles stopped for traffic violations, as well as those involved in accidents.
- The largest cities in Texas with towing policies are San Antonio and Dallas. Each of the cities impound uninsured vehicles stopped for traffic violations, as well as those involved in accidents
- Plano, Arlington, Irving, Desoto, Mesquite, Haltom City, and Corpus Christi all have implemented towing policies. With the exception of Plano, each of these cities impounds vehicles from traffic stops and accidents.



Legal Justification

- In 1998, US District Court case, Maricle v. Biggerstaff (3:97-CV-3029), upheld that impounding vehicles for “No Insurance” was constitutional and held that police clearly had probable cause to believe that the vehicles had been and were being used in the commission of an offense, and that “a warrantless seizure (of the cars), based on probable cause, is a reasonable exercise of police power.”
- There is no case law or statutory law contrary to the holding in Maricle therefore, this case remains the precedent case law for our jurisdiction.



Exceptions To Financial Responsibility Requirement

- Former military vehicle
- Vehicle used only for exhibitions, club activities, parades, and other functions of public interest and not for regular transportation
- Vehicle for which the owner files with the department an affidavit, signed by the owner, stating that the vehicle is a collector's item
- A volunteer fire department vehicle if the title is held in the name of the volunteer fire department.



Proof of Financial Responsibility

The Transportation Code allows for the following documents to be used as acceptable evidence of proof of financial responsibility if the document identifies the operator as insured or identified the vehicle as a covered vehicles:

- a motor vehicle liability insurance policy covering the vehicle
- a surety bond certificate
- a certificate of a deposit with the comptroller or county judge covering the vehicle
- a certificate of self-insurance covering the vehicle



EPPD Overview of Impound Policy

Procedures Manual 3-209-01 When Vehicles May be
Impounded



An officer may impound a vehicle in violation of the Texas Motor Vehicle Safety Responsibility Act under the following circumstances after making a reasonable attempt to verify the insurance under the following circumstances:

- The vehicle is being operated on a public roadway;
- The vehicle is involved in an accident and the owner/operator fails to show evidence of financial responsibility;
- Racing;
- DWI;
- The operator is driving recklessly.



Reckless Driving means

The operator commits a serious traffic violation as defined by the Texas Transportation Code § 522.003 which includes;

- Excessive speeding, involving a single charge of driving 15 miles per hour or more above the posted speed limit
- Reckless or negligent driving where the operator drives a vehicle with a willful or wanton disregard for the safety of persons or property
- Improper or erratic traffic lane change
- Following the vehicle ahead too closely as defined by the Texas Transportation Code: § 545.062 or
- Stop Sign or Stop Light violations as defined by the Texas Transportation Code



EPPD Steps to Verify Compliance With the Law

EPPD Officers will make a reasonable attempt to verify Evidence of Financial Responsibility:

- Through documentation provided by the operator. As a condition of operating a motor vehicle in this state, the operator of the vehicle on request shall provide to a peace officer or a person involved in an accident with the operator evidence of financial responsibility. An operator who does not exhibit evidence of financial responsibility is presumed to have operated the vehicle in violation of state law.
- Texas Sure Program



What is Texas Sure

- Texas Sure is a database that matches the records of registered vehicles with personal auto insurance policy information submitted by Texas insurance companies.
- The program is designed to reduce the number of uninsured motorists by providing information that is accurate and current; and be capable of being audited by an independent auditor.
- How it works: during a traffic stop, officers may use the license plate and/or VIN of a vehicle to submit a query through the Texas Law Enforcement Telecommunications System (TLETS).
- Officers will have near-instant access to insurance information.



Driver and Occupant Safety

- Upon impounding, officers will not leave a driver or occupants in a hazardous location.
- They will be transported to the nearest public place with a telephone.



Duration of Impoundment; Release

- A motor vehicle impounded under this ordinance remains impounded until the owner, operator, or person authorized by the owner presents to the person authorized to release the vehicle evidence of financial responsibility as defined within the Transportation Code, Title 7. Vehicles And Traffic, Subtitle D. Motor Vehicle Safety Responsibility, Chapter 601. Motor Vehicle Safety Responsibility Act, § 601.051.
- Payment for the cost of impoundment.
- On presentation of the items described by Subsection (a), the person authorized to release an impounded motor vehicle shall release the vehicle.



Enforcement Moratorium

- The El Paso Police Department will not enforce this ordinance for a period of 90 days from approval by City Council to allow for a public awareness campaign and officer training.
- Public Awareness campaign conducted through media releases and public presentations at the Regional Commands, and a Towing Ordinance Frequently Asked Questions on the department web page.
- Officer training will be conducted meeting the standards and requirements of both the Commission on Accreditation for Law Enforcement Agencies (CALEA) and the Texas Commission on Law Enforcement Officer Standards and Education (TCELOSE).

S E R V I C E S O L U T I O N S S U C C E S S



El Paso Police Department

Questions?