

By: King of Uvalde

H.B. No. 3478

A BILL TO BE ENTITLED

AN ACT

relating to mediation of certain fee disputes between towing companies and motor carriers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 2303, Occupations Code, is amended by adding Section 2303.1541 to read as follows:

Sec. 2303.1541. SALE OR DISPOSAL OF VEHICLE PENDING MEDIATION PROHIBITED. A vehicle storage facility operator who receives notice under Section 2308.554(a)(2) or Section 2308.560(c) may not sell at a public sale or otherwise dispose of the vehicle that is the subject of the notice until the operator receives notice under Section 2308.560 that:

(1) the mediation has been resolved; and

(2) if a civil action was filed by a party after the end of the mediation process, the civil action has concluded.

SECTION 2. Chapter 2308, Occupations Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. FEE DISPUTE MEDIATION

BETWEEN TOWING COMPANY AND MOTOR CARRIER

Sec. 2308.551. DEFINITION. In this subchapter, "motor carrier" has the meaning assigned by Section 643.001, Transportation Code.

Sec. 2308.552. FEE DISPUTE MEDIATION REQUIRED ON MOTOR CARRIER REQUEST. (a) A motor carrier may request mediation under

1 this subchapter in a dispute with a towing company relating to an
2 incident management tow for which towing and recovery fees exceed
3 \$20,000.

4 (b) A towing company must participate in mediation
5 requested by a motor carrier under this subchapter.

6 Sec. 2308.553. REQUEST FOR MEDIATION. (a) A motor carrier
7 may submit a request in the manner prescribed by the department not
8 later than the 30th day after the later of the date the motor
9 carrier:

- 10 (1) pays the towing and recovery charges; or
11 (2) receives notice from a vehicle storage facility
12 under Section 2303.151.

13 (b) A motor carrier that does not timely submit a request
14 under Subsection (a) waives the right to mediation under this
15 subchapter.

16 Sec. 2308.554. NOTICE OF REQUEST. (a) On receipt of a
17 request for mediation under this subchapter, the department shall
18 give notice that the motor carrier has requested mediation to:

19 (1) the towing company that towed the vehicle that is
20 the subject of the request for mediation; and

21 (2) the operator of the vehicle storage facility
22 storing the vehicle that is the subject of the request for
23 mediation.

24 (b) A vehicle storage facility operator who receives notice
25 under this section:

26 (1) may continue to charge a daily storage fee
27 authorized by Section 2303.155(b)(3); and

1 (2) may not sell the vehicle at a public sale or
2 otherwise dispose of the vehicle under Subchapter D, Chapter 2303,
3 before the operator receives notice under Section 2308.560 that:

4 (A) the mediation has been resolved; and

5 (B) if a civil action was filed by a party after
6 the end of the mediation process, the civil action has concluded.

7 Sec. 2308.555. MEDIATOR. (a) A person may not act as a
8 mediator in the mediation program unless the person is qualified as
9 an impartial third party under Section 154.052, Civil Practice and
10 Remedies Code.

11 (b) The parties by agreement shall select and compensate a
12 mediator from the list maintained by the department, except that
13 the parties by written agreement may select a mediator not on the
14 department's list.

15 (c) If the parties do not agree on a mediator by the 10th day
16 after the date the department gives notice to the towing company of
17 the request for mediation:

18 (1) the motor carrier shall notify the department that
19 a mediator has not been selected; and

20 (2) the department shall select a mediator from the
21 department's list of qualified mediators based on convenience to
22 the location of the towing company.

23 (d) Sections 154.053 and 154.055, Civil Practice and
24 Remedies Code, apply to a mediator under this subchapter.

25 Sec. 2308.556. LOCATION AND SCHEDULE OF MEDIATION. (a) The
26 parties by agreement shall select a venue and schedule for
27 mediation under this subchapter. If the parties are unable to agree

1 on a venue and schedule, the mediator shall select a venue and
2 schedule.

3 (b) Mediation must be completed not later than the 30th day
4 after the date the department orders the parties to mediate, except
5 that the deadline may be extended by the department at the request
6 of all parties.

7 Sec. 2308.557. APPLICABLE LAW. Section 154.073, Civil
8 Practice and Remedies Code, applies to mediation under this
9 subchapter.

10 Sec. 2308.558. COSTS OF MEDIATION. (a) The fee for a
11 mediator employed under this subchapter may not exceed:

12 (1) \$750 per party, for a half-day mediation; or

13 (2) \$1,500 per party, for a full-day mediation.

14 (b) The department is not liable for compensation paid or to
15 be paid to a mediator employed under this subchapter.

16 (c) Without regard to the outcome of mediation or subsequent
17 regulatory or judicial proceedings, costs incurred by a party in
18 mediation required by this subchapter may not be imposed on the
19 opposing party.

20 Sec. 2308.559. MATTERS CONSIDERED IN MEDIATION; AGREED
21 RESOLUTION. (a) In a mediation under this subchapter, the parties
22 shall evaluate whether the amount charged by the towing company is
23 excessive. If the parties determine that the amount charged is
24 excessive, the parties shall determine the appropriate charges for
25 services rendered.

26 (b) A mediator may not impose the mediator's own judgment on
27 the issues for that of the parties.

1 Sec. 2308.560. OUTCOME OF MEDIATION; CIVIL ACTION. (a) Not
2 later than the 15th day after the date the mediation concludes, the
3 mediator shall report to the department whether mediation resolves
4 the dispute. The department shall notify the operator of the
5 vehicle storage facility where the vehicle that is the subject of
6 the mediation is being stored of the outcome of the mediation.

7 (b) If mediation does not resolve the dispute, either party
8 may file a civil action. A party in a mediation under this
9 subchapter may not bring a civil action before the conclusion of the
10 mediation process under this subchapter. This subsection does not
11 prohibit a motor carrier from filing a request for a hearing under
12 Subchapter J before the conclusion of mediation.

13 (c) If a party in mediation brings a civil action after the
14 conclusion of the mediation process, the motor carrier shall give
15 notice to the operator of the vehicle storage facility storing the
16 vehicle that is the subject of the action of the initiation and
17 conclusion of the action. Notice under this subsection must be
18 given:

19 (1) on filing the petition with the court, if the motor
20 carrier is the party filing the action; or

21 (2) on service of citation on the motor carrier.

22 (d) A vehicle storage facility operator who receives notice
23 of a civil action from a motor carrier under this section:

24 (1) may continue to charge a daily storage fee
25 authorized by Section 2303.155(b)(3); and

26 (2) may not sell the vehicle at a public sale or
27 otherwise dispose of the vehicle under Subchapter D, Chapter 2303,

1 before the motor carrier gives the operator notice of the
2 conclusion of the action.

3 Sec. 2308.561. FORMS AND PROCEDURES; REQUEST PORTAL. The
4 department shall:

5 (1) adopt forms and procedures necessary to administer
6 this subchapter;

7 (2) establish a portal on the department's Internet
8 website through which a request to participate in the mediation
9 program may be submitted; and

10 (3) maintain a list of qualified mediators on the
11 department's Internet website.

12 SECTION 3. This Act takes effect September 1, 2023.