

AN ACT

relating to the regulation of tow trucks, to the authority of a political subdivision of this state to regulate tow trucks, and to insurance for commercial motor vehicles; providing penalties.

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

SECTION 1. Section 2303.151(d), Occupations Code, is amended to read as follows:

(d) A notice under this section must:

- (1) be correctly addressed;
- (2) carry sufficient postage; and
- (3) be sent by certified mail, return receipt requested or electronic certified mail.

SECTION 2. Section 2303.155(b), Occupations Code, is amended to read as follows:

(b) The operator of a vehicle storage facility or governmental vehicle storage facility may charge the owner of a vehicle stored or parked at the facility:

(1) a notification fee set in a reasonable amount not to exceed \$25 for providing notice under this subchapter;

(2) an impoundment fee of \$20 [~~\$10~~] for any action that:

(A) is taken by or at the direction of the owner or operator of the facility; and

(B) is necessary to preserve, protect, or service

1 a vehicle stored or parked at the facility; and

2 (3) a daily storage fee of not less than \$5 and not  
3 more than \$15 for each day or part of a day the vehicle is stored at  
4 the facility.

5 SECTION 3. Section 545.306(a), Transportation Code, is  
6 amended to read as follows:

7 (a) The commissioners court of a county with a population of  
8 3.3 million or more shall by ordinance provide for the licensing of  
9 or the granting of a permit to a person to remove or store a vehicle  
10 authorized by Section 545.305 to be removed in an unincorporated  
11 area of the county. The ordinance must include rules to ensure the  
12 protection of the public and the safe and efficient operation of  
13 towing and storage services in the county and may not regulate or  
14 restrict the use of lighting equipment more than the extent allowed  
15 by state and federal law. The sheriff shall determine the rules  
16 included in the ordinance with the review and consent of the  
17 commissioners court.

18 SECTION 4. Section 643.053, Transportation Code, is amended  
19 to read as follows:

20 Sec. 643.053. FILING OF APPLICATION. An application under  
21 Section 643.052 must be filed with the department and accompanied  
22 by:

23 (1) an application fee of \$100 plus a \$10 fee for each  
24 vehicle requiring registration other than a tow truck or a \$25 fee  
25 for each tow truck the motor carrier proposes to operate;

26 (2) evidence of insurance or financial responsibility  
27 as required by Section 643.103(a); and

1           (3) any insurance filing fee required under Section  
2 643.103(c).

3           SECTION 5. Sections 643.057(a), (b), and (d),  
4 Transportation Code, are amended to read as follows:

5           (a) A motor carrier may not operate an additional vehicle  
6 requiring registration unless the carrier pays a registration fee  
7 of \$10 for each additional vehicle other than a tow truck or \$25 for  
8 each tow truck and shows the department evidence of insurance or  
9 financial responsibility for the vehicle in an amount at least  
10 equal to the amount set by the department under Section 643.101.

11           (b) A motor carrier is not required to pay the applicable  
12 [~~\$10~~] registration fee under Subsection (a) for a vehicle for which  
13 the same fee is required and that replaces a vehicle for which the  
14 fee has been paid.

15           (d) The department may not collect more than \$10 in  
16 equipment registration fees for a vehicle other than a tow truck  
17 registered under both this subchapter and Chapter 645 or more than  
18 \$25 if the vehicle is a tow truck.

19           SECTION 6. Section 643.058(c), Transportation Code, is  
20 amended to read as follows:

21           (c) A motor carrier may renew a registration under this  
22 subchapter by:

23           (1) supplementing the application with any new  
24 information required under Section 643.056;

25           (2) paying a \$10 fee for each vehicle requiring  
26 registration other than a tow truck or a fee of \$25 for each tow  
27 truck the carrier operates; and

1           (3) providing the department evidence of continuing  
2 insurance or financial responsibility in an amount at least equal  
3 to the amount set by the department under Section 643.101.

4           SECTION 7. Section 643.061(b), Transportation Code, is  
5 amended to read as follows:

6           (b) A motor carrier applying for registration under this  
7 section must pay:

8           (1) a \$20 fee for each vehicle registered other than a  
9 tow truck or a fee of \$50 for each tow truck under Subsection  
10 (a)(1);

11           (2) a \$10 fee for each vehicle registered other than a  
12 tow truck or a fee of \$25 for each tow truck under Subsection  
13 (a)(2); and

14           (3) application and insurance filing fees the  
15 department by rule adopts in an amount not to exceed \$100 each.

16           SECTION 8. Section 643.101, Transportation Code, is amended  
17 by adding Subsections (d) and (e) to read as follows:

18           (d) The owner of a tow truck that is used to perform  
19 nonconsent tows, as defined by Section 643.201, shall maintain  
20 on-hook cargo insurance in the amount of at least \$50,000 per truck.

21           (e) Unless state law permits a commercial motor vehicle to  
22 be self-insured, any insurance required for a commercial motor  
23 vehicle must be obtained from:

24           (1) an insurer authorized to do business in this state  
25 whose aggregate net risk, after reinsurance, under any one  
26 insurance policy is not in excess of 10 percent of the insurer's  
27 policyholders' surplus, and credit for such reinsurance is

1 permitted by law; or

2 (2) an insurer that meets the eligibility requirements  
3 of a surplus lines insurer pursuant to Article 1.14-2, Insurance  
4 Code. Notwithstanding any other provision in law, an insurer in  
5 compliance with this subsection shall be deemed to be in compliance  
6 with any rating or financial criteria established for motor  
7 carriers by any political subdivision of the state.

8 SECTION 9. Section 643.201(a), Transportation Code, is  
9 amended to read as follows:

10 (a) In addition to the registration requirements of  
11 Subchapter B, a political subdivision of this state may regulate  
12 the operation of a tow truck to the extent allowed by federal law,  
13 except that a political subdivision may not issue a more  
14 restrictive regulation for the use of lighting equipment on a tow  
15 truck than is imposed by this title.

16 SECTION 10. Subchapter E, Chapter 643, Transportation Code,  
17 is amended by adding Sections 643.203-643.208 to read as follows:

18 Sec. 643.203. REGULATION BY POLITICAL SUBDIVISIONS OF FEES  
19 FOR NONCONSENT TOWS. The governing body of a political subdivision  
20 may regulate the fees that may be charged or collected in connection  
21 with a nonconsent tow originating in the territory of the political  
22 subdivision.

23 Sec. 643.204. TOWING FEE STUDIES. (a) The governing body  
24 of a political subdivision that regulates nonconsent tow fees shall  
25 establish procedures by which a towing company may request that a  
26 towing fee study be performed.

27 (b) The governing body of the political subdivision shall

1 establish or amend the allowable fees for nonconsent tows at  
2 amounts that represent the fair value of the services of a towing  
3 company and are reasonably related to any financial or accounting  
4 information provided to the governing body.

5 Sec. 643.205. FEES FOR NONCONSENT TOWS IN OTHER AREAS. (a)

6 In an area in which no political subdivision regulates the fees that  
7 may be charged or collected for a nonconsent tow from private  
8 property, a towing company may charge and collect a fee for the tow  
9 of a motor vehicle from private property in an amount not to exceed  
10 an amount equal to 150 percent of the fee that the towing company  
11 would have been authorized to charge for a nonconsent tow made at  
12 the request of a peace officer of the political subdivision in which  
13 the private property is located.

14 (b) A towing company may charge and collect a fee for the tow  
15 of a vehicle, with a gross vehicle weight rating in excess of 26,000  
16 pounds, from private property in an amount not to exceed an amount  
17 equal to 125 percent of the fee that the towing company would have  
18 been authorized to charge for a nonconsent tow made at the request  
19 of a peace officer of the political subdivision in which the private  
20 property is located.

21 Sec. 643.206. STORAGE OF TOWED VEHICLES. (a) A towing

22 company that makes a nonconsent tow shall tow the vehicle to a  
23 vehicle storage facility that is operated by a person who holds a  
24 license to operate the facility under Chapter 2303, Occupations  
25 Code.

26 (b) A storage or notification fee imposed in connection with  
27 a motor vehicle towed to a vehicle storage facility is governed by

1 Chapter 2303, Occupations Code.

2 (c) Except as provided by this chapter or Chapter 2303,  
3 Occupations Code, a fee may not be charged or collected without the  
4 prior written consent of the vehicle owner or operator.

5 Sec. 643.207. REQUIRED FILING. (a) Before January 31 of  
6 each year, a towing company shall file with the department a  
7 schedule showing each towing fee that the towing company charges or  
8 collects in connection with a nonconsent tow.

9 (b) If a political subdivision begins regulating nonconsent  
10 tow fees, the fees shall be reported to the department by the towing  
11 company before the 30th day after the regulation goes into effect.

12 (c) Any changes in nonconsent tow fees regulated by a  
13 political subdivision shall be reported to the department by the  
14 towing company before the 30th day after the effective date of the  
15 change.

16 (d) The department shall make towing fee schedules  
17 available on the department's Internet website. The department  
18 shall make no determination as to the reasonableness of a towing fee  
19 schedule.

20 Sec. 643.208. REQUIRED POSTING. All towing and storage  
21 fees shall be posted at the licensed vehicle storage facility to  
22 which the motor vehicle has been delivered and shall be posted in  
23 view of the person who claims the vehicle.

24 SECTION 11. Section 643.252(a), Transportation Code, is  
25 amended to read as follows:

26 (a) The department may suspend or revoke a registration  
27 issued under this chapter or place on probation a motor carrier

1 whose registration is suspended if a motor carrier:

2 (1) fails to maintain insurance or evidence of  
3 financial responsibility as required by Section 643.101(a), (b),  
4 [~~or~~] (c), or (d) or 643.153(b);

5 (2) fails to keep evidence of insurance in the cab of  
6 each vehicle as required by Section 643.103(b);

7 (3) fails to register a vehicle requiring  
8 registration;

9 (4) knowingly provides false information on any form  
10 filed with the department under this chapter; or

11 (5) violates a rule adopted under Section 643.063.

12 SECTION 12. The heading to Section 643.253, Transportation  
13 Code, is amended to read as follows:

14 Sec. 643.253. OFFENSES AND PENALTIES [~~CRIMINAL PENALTY~~].

15 SECTION 13. Section 643.253, Transportation Code, is  
16 amended by amending Subsection (c) and adding Subsections (d)-(f)  
17 to read as follows:

18 (c) Except as provided by Subsection (e), an [~~An~~] offense  
19 under this section is a Class C misdemeanor.

20 (d) A person commits an offense if the person:

21 (1) violates an ordinance, resolution, order, rule, or  
22 regulation of a political subdivision adopted under Section 643.201  
23 or 643.203, for which the political subdivision does not prescribe  
24 the penalty;

25 (2) charges or collects a fee in a political  
26 subdivision that regulates the operation of tow trucks under  
27 Section 643.201 or 643.203 that is not authorized or is greater than



1 the authorized amount of the fee;

2 (3) charges or collects a fee greater than the amount  
3 authorized under Section 643.205;

4 (4) charges or collects a fee in excess of the amount  
5 filed with the department under Section 643.207;

6 (5) violates Section 643.206; or

7 (6) violates a rule of the department applicable to a  
8 tow truck and towing company.

9 (e) An offense under Subsection (d) is a misdemeanor  
10 punishable by a fine of not less than \$200 or more than \$1,000 per  
11 violation.

12 (f) A peace officer may issue a citation for a violation  
13 under this section.

14 SECTION 14. Section 683.001, Transportation Code, is  
15 amended by adding Subdivisions (9) and (10) to read as follows:

16 (9) "Abandoned nuisance vehicle" means a motor vehicle  
17 that is at least 10 years old and is of a condition only to be  
18 junked, crushed, or dismantled.

19 (10) "Vehicle storage facility" means a vehicle  
20 storage facility, as defined by Section 2303.002, Occupations Code,  
21 that is operated by a person who holds a license issued under  
22 Chapter 2303 of that code to operate that vehicle storage facility.

23 SECTION 15. Section 683.012, Transportation Code, is  
24 amended by adding Subsection (e) to read as follows:

25 (e) A law enforcement agency is not required to send a  
26 notice, as otherwise required by Subsection (a), if the agency has  
27 received notice from a vehicle storage facility that an application

1 has or will be submitted to the department for the disposal of the  
2 vehicle.

3 SECTION 16. Section 683.034(e), Transportation Code, is  
4 amended to read as follows:

5 (e) If the law enforcement agency does not take the vehicle  
6 into custody before the 31st day after the date notice is sent under  
7 Section 683.012:

8 (1) the law enforcement agency may not take the  
9 vehicle into custody; and

10 (2) the storage facility may dispose of the vehicle  
11 under:

12 (A) Chapter 70, Property Code, except that notice  
13 under Section 683.012 satisfies the notice requirements of that  
14 chapter; or

15 (B) Chapter 2303, Occupations Code, if:

16 (i) the storage facility is a vehicle  
17 storage facility; and

18 (ii) the vehicle is an abandoned nuisance  
19 vehicle.

20 SECTION 17. Sections 685.009(c) and (e), Transportation  
21 Code, are amended to read as follows:

22 (c) The issues [~~sole issue~~] in a hearing under this chapter  
23 are:

24 (1) [is] whether probable cause existed for the  
25 removal and placement of the vehicle;

26 (2) whether a towing charge imposed or collected in  
27 connection with the removal or placement of the vehicle was greater

1 than the amount authorized by the political subdivision under  
2 Section 643.201 or 643.203;

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

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

9 (e) The court may award:

10 (1) court costs to the prevailing party; ~~and~~

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

14 (3) an amount equal to the amount that the towing  
15 charge exceeded fees regulated by a political subdivision or  
16 authorized by this code or by Chapter 2303, Occupations Code.

17 SECTION 18. (a) This Act takes effect September 1, 2003.

18 (b) The change in law made by this Act applies only to an  
19 offense committed on or after September 1, 2003.

20 (c) An offense committed before September 1, 2003, is  
21 covered by the law in effect when the offense was committed, and the  
22 former law is continued in effect for that purpose. For purposes of  
23 this section, an offense was committed before September 1, 2003, if  
24 any element of the offense was committed before that date.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 849 was passed by the House on April 9, 2003, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 849 on May 30, 2003, by a non-record vote.

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Chief Clerk of the House

I certify that H.B. No. 849 was passed by the Senate, with amendments, on May 28, 2003, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor