

By: Hill

H.B. No. 1808

Substitute the following for H.B. No. 1808:

By: Hill

C.S.H.B. No. 1808

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the regulation of tow trucks and to the authority of a
3 political subdivision of this state to regulate tow trucks;
4 providing penalties.

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

6 SECTION 1. Section 643.053, Transportation Code, is amended
7 to read as follows:

8 Sec. 643.053. FILING OF APPLICATION. An application under
9 Section 643.052 must be filed with the department and accompanied
10 by:

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

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

16 (3) any insurance filing fee required under Section
17 643.103(c).

18 SECTION 2. Sections 643.057(a), (b), and (d),
19 Transportation Code, are amended to read as follows:

20 (a) A motor carrier may not operate an additional vehicle
21 requiring registration unless the carrier pays a registration fee
22 of \$10 for each additional vehicle other than a tow truck or \$25 or
23 each tow truck and shows the department evidence of insurance or
24 financial responsibility for the vehicle in an amount at least

1 equal to the amount set by the department under Section 643.101.

2 (b) A motor carrier is not required to pay the applicable
3 [~~\$10~~] registration fee under Subsection (a) for a vehicle for which
4 the same fee is required and that replaces a vehicle for which the
5 fee has been paid.

6 (d) The department may not collect more than \$10 in
7 equipment registration fees for a vehicle other than a tow truck
8 registered under both this subchapter and Chapter 645 or more than
9 \$25 if the vehicle is a tow truck.

10 SECTION 3. Section 643.058(c), Transportation Code, is
11 amended to read as follows:

12 (c) A motor carrier may renew a registration under this
13 subchapter by:

14 (1) supplementing the application with any new
15 information required under Section 643.056;

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

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

22 SECTION 4. Section 643.061, Transportation Code, is amended
23 by amending subsection (b) to read as follows:

24 (b) A motor carrier applying for registration under this
25 section must pay:

26 (1) a \$20 fee for each vehicle registered other than a
27 tow truck or a fee of \$50 for each tow truck under Subsection

1 (a)(1); and

2 (2) a \$10 fee for each vehicle registered other than a
3 tow truck or a fee of \$25 for each tow truck under Subsection
4 (a)(2).

5 SECTION 5. Section 643.101, Transportation Code, is amended
6 by adding Subsection (d) to read as follows:

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

10 SECTION 5. Subchapter E, Chapter 643, Transportation Code,
11 is amended by adding Sections 643.203, 643.204, 643.205, 643.206
12 and 643.207 to read as follows:

13 Sec. 643.203. REGULATION BY POLITICAL SUBDIVISIONS OF FEES
14 FOR NONCONSENT TOWS. The governing body of a political subdivision
15 may regulate the fees that may be charged or collected in connection
16 with a nonconsent tow originating in the territory of the political
17 subdivision.

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

22 (b) The governing body of the political subdivision shall
23 establish or amend the allowable fees for nonconsent tows at
24 amounts that represent the fair value of the services of a towing
25 company and are reasonably related to any financial or accounting
26 information provided to the governing body.

27 Sec. 643.205. FEES FOR NONCONSENT TOWS IN OTHER AREAS. In

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

9 Sec. 643.206. STORAGE OF TOWED VEHICLES. (a) A towing
10 company that makes a nonconsent tow shall tow the vehicle to a
11 vehicle storage facility that is operated by a person who holds a
12 license to operate the facility under the Vehicle Storage Facility
13 Act (Chapter 2303, Occupations Code).

14 (b) A storage or notification fee imposed in connection with
15 a motor vehicle towed to a vehicle storage facility is governed by
16 the Vehicle Storage Facility Act (Chapter 2303, Occupations Code).

17 Section 253.207. REQUIRED FILING. (a) Before January 31 of
18 each year a towing company shall file with the department a schedule
19 showing each towing fee that the towing company charges or collects
20 in connection with a nonconsent tow.

21 (b) If a political subdivision begins regulating nonconsent
22 tow fees the fees shall be reported to the department by the towing
23 company before the 30th day after the regulation goes into
24 effective.

25 (c) Any changes in nonconsent fees regulated by a political
26 subdivision shall be reported to the department by the towing
27 company before the 30th day after the effective date of the change.

1 (d) The department shall make towing fee schedules
2 available on the department's Internet website. The department
3 shall make no determination as to the reasonableness of a towing fee
4 schedule.

5 SECTION Section 643.252, Transportation Code is amended by
6 amending Subsection (a)(1) to read as follows:

7 (a) The department may suspend or revoke a registration
8 issued under this chapter or place on probation a motor carrier
9 whose registration is suspended if a motor carrier:

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

13 SECTION 6. The heading to Section 643.253, Transportation
14 Code, is amended to read as follows:

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

16 SECTION 7. Section 643.253, Transportation Code, is amended
17 by amending Subsection (c) and adding Subsections (d)-(e) to read
18 as follows:

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

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

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

26 (2) charges or collects a fee in a political
27 subdivision that regulates the operation of tow trucks under

1 Section 643.201 or 643.203 that is not authorized or is greater than
2 the authorized amount of the fee;

3 (3) charges or collects a fee greater than the amount
4 authorized under 643.205.

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

7 (4) violates Section 643.206;

8 (5) violates a rule of the department applicable to a
9 tow truck and towing company; or

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

13 SECTION 8. Sections 685.009(c) and (e), Transportation
14 Code, are amended to read as follows:

15 (c) The ~~[sole]~~ issues in a hearing under this chapter are
16 ~~[is:]~~

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

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

23 (3) whether a towing charge imposed or collected in
24 connection with the removal or placement of the vehicle was greater
25 than the amount authorized under Section 643.204 or Section
26 643.205; or

27 (4) whether a towing charge imposed or collected in

1 connection with the removal or placement of the vehicle was greater
2 than the amount filed with the department under Section 643.207.

3 (e) The court may award:

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

5 (2) the reasonable cost of photographs submitted under
6 Section 685.007(b)(8) to a vehicle owner or operator who is the
7 prevailing party; ~~and~~

8 (3) an amount equal to the amount that the towing
9 charge exceeded fees regulated by a political subdivision or
10 authorized under this chapter.

11 SECTION 9. (a) This Act takes effect September 1, 2003.

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

14 (c) An offense committed before September 1, 2003, is
15 covered by the law in effect when the offense was committed, and the
16 former law is continued in effect for that purpose. For purposes of
17 this section, an offense was committed before September 1, 2003, if
18 any element of the offense was committed before that date.