

## **BILL ANALYSIS**

C.S.S.B. 1118  
By: Carona  
Transportation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In the early 1990's, the Texas Tow Act was wiped-off the books by federal deregulation of the trucking. State legislators and the towing and storage industry have spent nearly a decade reinstating state regulation within the confines of federal law. While the laws have been restored, the provisions are scattered throughout the Transportation and Occupations Code making implementation difficult.

Furthermore, the towing and storage industry is under the purview of the Texas Department of Transportation, an agency charged with *planning, designing, building, operating and maintaining the state's transportation system*, not the regulation of businesses and occupations.

Also over the last decade, public demands and expectations have resulted in the need for a more accountable and professional industry. The towing and storage industry has evolved into three distinct segments – accident and public safety towing, private property towing, and towing requested by a vehicle owner. However, the state regulatory scheme is not reflective of the industry today.

CSSB 1118 consolidates laws relating to the towing and storage industry under the Occupations Code. The bill transfers the regulation of the towing and storage industry to the Texas Department of Licensing and Regulation, the state's umbrella occupational regulatory agency that currently regulates 22 occupations and industries. Also, the legislation provides for the: permitting of three classes of tow trucks; the licensing of three classes of towing operators; and the licensing of vehicle storage facility employees. CSSB 1118 mandates criminal background checks and drug testing for all licensees.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTIONS 1.02, 1.03, 1.05, 1.06, 1.09, 1.11 and 4.04.

### **ANALYSIS**

ARTICLE 1 Licensing and Regulation of Towing and Vehicle Storage

SECTION 1.01 amends Sections 2303.002(2), (3), and (4) of the Occupations Code, changing references from the Texas Department of Transportation to the Texas Department of Licensing and Regulation; changing director to executive director; and makes conforming changes.

SECTION 1.02 amends Section 2303.051 of the Occupations Code, providing that the commission may adopt rules to govern this chapter.

SECTION 1.03 adds Sections 2303.055, 2303.056, 2303.057 and 2303.058 to Chapter 2303 of the Occupations code, providing for examination of criminal convictions, periodic risk-based inspections of vehicle storage facilities by the department, allows department to hire employees, and creates the Towing and Storage Advisory Board to advise the department on matters relating to the towing and storage of vehicle.

SECTION 1.04. Amends the heading to Section 2303.101, Occupations Code to read as follows:

C.S.S.B. 1118 80(R)

## FACILITY LICENSE REQUIRED.

SECTION 1.05. amends Subchapter C, Chapter 2303, Occupations Code, by adding Section 2303.1015 providing that a person may not work at a vehicle storage facility without a license issued under this chapter.

SECTION 1.06 amends Section 2303.102 (a) and (b) of the Occupations Code, provides general application requirements; and deletes language regarding criminal convictions.

SECTION 1.07 – amends Section 2303.151(c), Occupations Code providing that a vehicle storage facility may verify ownership of an out-of-state vehicle by contacting the appropriate agency in writing or electronically.

SECTION 1.08. amends Section 2303.155(b), Occupations Code, providing that vehicle storage facility may charge a fee in an amount set by the commission for the remediation, recovery, or capture of an environmental or biological hazard.

SECTION 1.09 amends Subchapter D, Chapter 2303, Occupations Code, by adding Sec. 2303.160 requiring vehicle storage facilities to have a drug testing policy. A vehicle storage facility may adopt the model policy developed by the commission or may establish their own policy approved by the commission. Authorizes the commission to develop a model drug testing policy that is designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. Provides that the policy must include at least one scheduled test annually and additional random tests.

SECTION 1.10. amends Subchapter G, Chapter 2303, Occupations Code, by adding Sections 2303.304 and 2303.305. Section 2303.304 provides that the commission may impose administrative penalties under Subchapter F, Chapter 51, regardless of whether the violator holds a registration, permit, or license under this chapter; and provides for a hearing. Section 2303.305 authorizes the executive director to issue cease and desist orders as necessary to enforce this chapter; and provides that the attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

SECTION 1.11 amends Subtitle A, Title 14, Occupations Code, by adding Chapter 2308 including: Subchapter A. General Provisions, Subchapter B. Advisory Board, Subchapter C. Tow Truck Permit Requirements, and Subchapter D. License Requirements.

### SUBCHAPTER A. GENERAL PROVISIONS

Section 2308.001 provides that Chapter 2308 may be known as the Texas Towing Act

Section 2308.002 defines advisory board, commission, consent tow, department, driver's license, nonconsent tow, parking facility, parking facility owner, property owners' association, public roadway, tow truck, towing company, unauthorized vehicle, vehicle, vehicle owner and vehicle storage facility.

Section 2308.003 requires the department to study the fees charged by license and permit holders for nonconsent tows, compliance of license and permit holders with local regulations governing towing fees, and consumer complaints related to fees for nonconsent tows; requires the department to report findings and any recommendations to the legislature no later than January 1, 2009.

### SUBCHAPTER B. ADVISORY BOARD

Sections 2308.051, 2308.052, 2308.053, 2308.054 and 2308.055 provides for the composition of the Advisory Board, the terms of office, filling of vacancies, appointment of presiding officer, reimbursement of expenses and meetings.

Sections 2308.056, 2308.057 and 2308.058 provides for the duties and powers, rulemaking authority, and fee collection procedures by the commission, executive director and department.

Section 2308.059 provides for periodic risk-based inspections of towing businesses by the department.

Section 2308.060 provides the powers and duties of the advisory board.

Section 2308.061 allows the department to employ personnel as necessary to administer and enforce chapter.

#### SUBCHAPTER C - TOW TRUCK PERMIT REQUIREMENTS

Section 2308.101 provides that a tow truck may not be used for consent towing or nonconsent towing without a permit.

Section 2308.102 provides general application requirements and authorizes department to examine criminal convictions.

Section 2308.103 requires an incident management towing permit for trucks performing nonconsent towing authorized by a peace officer; establishes equipment and insurance requirements for incident management towing permits; provides that permitted incident management tow trucks may be used for all types of towing; and provides that when a permitted incident management tow truck is used for a nonconsent tow initiated by a peace officer under Section 545.3051, Transportation Code, the permit holder is an agent of law enforcement and subject to Section 545.3051(e), Transportation Code.

Section 2308.104 requires a private property towing permit for trucks performing nonconsent towing initiated by a parking facility owner; establishes equipment and liability insurance requirements for private property towing permits; and provides that permitted private property tow trucks may be used for private property towing and consent towing but not incident management towing.

Section 2308.105 requires a consent towing permit for trucks performing consent towing initiated by the vehicle owner; establishes equipment and liability insurance requirements for consent towing permits; and provides that permitted consent tow trucks may be used only for consent towing.

Section 2308.106 requires the department to issue a permit to an applicant who meets the requirements and authorizes the department to deny an application if the applicant has had a permit revoked under this chapter. Requires the department to issue a certificate containing a single permit number for each tow truck, regardless of whether the permit holder holds more than one permit.

Section 2308.107 provides for annual renewal of permits and requirements for renewal.

Section 2308.108 provides for the issuance of cab cards for each permit holder and the content of cab cards.

Section 2308.109 provides for the display of certain information on a tow truck.

Section 2308.110 requires permit holders to maintain financial responsibility for each tow truck, file evidence of insurance, and requires that evidence be kept in cab of truck.

#### SUBCHAPTER D - LICENSE REQUIREMENTS

Section 2308.151 provides that without an appropriate license under this Act, a person may not operate a towing company or a tow truck.

Section 2308.152 provides general license application requirements.

Section 2308.153 establishes requirements for an incident management towing operator's license. Provides that licensed incident management towing operator may conduct all types of towing.

Section 2308.154 establishes requirements for a private property towing operator's license. Provides that licensed private property towing operator may conduct private property towing and consent towing but not incident management towing.

Section 2308.155 establishes requirements for a consent towing operator's license. Provides that licensed consent towing operators may only conduct consent towing.

Section 2308.156 authorizes the department to conduct examinations or contract for examinations; provides for the content of examinations; and directs executive director to establish a uniform standard for acceptable performance on the examinations.

Sec. 2308.157 provides that a license issued by the executive director is valid throughout this state and is not transferable.

Sec. 2308.158 provides for continuing education for licensees; and provides certain requirements for incident management towing operators.

## ARTICLE 2 Consolidation of Laws Regulated to Towing

SECTION 2.01 provides that Sections 643.201 and 643.203 through 643.208, Transportation Code, are transferred to Chapter 2308, Occupations Code, redesignated as Subchapter E, Chapter 2308, Occupations Code, and renumbers as Sections 2308.201 through 2308.207, Occupations Code

### SUBCHAPTER E. LOCAL REGULATION OF TOWING

Section 2308.201 relates to regulation of towing by political subdivisions and was Sec. 643.201, Transportation Code; makes conforming changes.

Section 2308.202 relates to regulation by political subdivisions of fees for nonconsent tows and was Sec. 643.203, Transportation Code; makes conforming changes. Requires local government to set nonconsent towing rates.

Sec. 2308.203 relates to towing fee studies and was Sec. 643.204, Transportation Code.

Sec. 2308.204 relates to fees for nonconsent tows in other areas and was Sec. 643.205, Transportation Code.

Sec. 2308.205 relates to storage of towed vehicles and was Sec. 643.206, Transportation Code; makes conforming changes.

Sec. 2308.206 relates to required filings and was Sec. 643.207, Transportation Code. Provides that a license or permit holder may not charge a nonconsent tow fee that is greater than the fee listed in the schedule most recently submitted to the department.

Sec. 2308.207 [643.208] relates to required posting and was Sec. 643.208. Provides that vehicle storage fees must be posted at the storage facility. Requires that nonconsent towing fees be available upon request and requires a sign stating that the fee schedule is available.

SECTION 2.02 provides that Section 684.101, Transportation Code, is transferred to Subchapter E, Chapter 2308, Occupations Code, and renumbered as Section 2308.208, Occupations Code.

Section 2308.208 relates to a municipal ordinance regulating unauthorized vehicles and was transferred from Sec. 684.101, Transportation Code.

SECTION 2.03 provides that Sections 684.011, 684.012, 684.0125, 684.013, 684.014, and 684.015, Transportation Code, are transferred to Chapter 2308, Occupations Code, redesignated as Subchapter F, Chapter 2308, Transportation Code, renumbered as Sections 2308.251 through 2308.256, Occupations Code.

## SUBCHAPTER F. UNAUTHORIZED VEHICLES

Sec. 2308.251 relates to the prohibition against unattended vehicles in certain areas and was transferred from Section 684.011, Transportation Code; makes conforming changes.

Sec. 2308.252 relates to removal and storage of unauthorized vehicles and was transferred from Section 684.012, Transportation Code; makes conforming changes.

Sec. 2308.253 relates to unattended vehicles on parking facility of apartment complex; removal and storage of vehicles and was transferred from Section 684.0125, Transportation Code; makes conforming changes.

Sec. 2308.254 relates to the limitation on parking facility owner's authority to remove unauthorized vehicle and was transferred from Section 684.013, Transportation Code. Deletes requirement that a peace officer must authorize removal of a vehicle obstructing a driveway.

Sec. 2308.255 relates to a towing company's authority to remove and store unauthorized vehicle and was transferred from Section 684.014, Transportation Code; makes conforming changes.

Sec. 2308.256 relates to a vehicle storage facility's duty to report after accepting unauthorized vehicle and was transferred from Section 684.015, Transportation Code.

SECTION 2.04 provides that Subchapter C, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, redesignated as Subchapter G, Chapter 2308, Occupations Code, renumbered as Sections 2308.301 through 2308.305, Occupations Code.

## SUBCHAPTER G. SIGNS PROHIBITING UNAUTHORIZED VEHICLES AND DESIGNATING RESTRICTED AREAS

Sec. 2308.301 relates to the general requirements for sign prohibiting unauthorized vehicles and was transferred from Section 684.031, Transportation Code; makes conforming changes.

Sec. 2308.302 relates to the color, layout, and lettering height requirements of signs and was transferred from Section 684.032, Transportation Code ; makes conforming changes.

Sec. 2308.303 relates to the telephone number for locating towed vehicle required on signs and was transferred from Section 684.033, Transportation Code; makes conforming changes.

Sec. 2308.304 relates to the designation of restricted parking spaces on otherwise unrestricted parking facility and was transferred from Section 684.034, Transportation Code; makes conforming changes.

Sec. 2308.305 relates to individual parking restrictions in restricted area and was transferred from Section 684.035, Transportation Code; makes conforming changes.

SECTION 2.05 provides that Subchapter D, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, redesignated as Subchapter H, Chapter 2308, Occupations Code, renumbered as Sections 2308.351 through 2308.354, Occupations Code.

## SUBCHAPTER H . REGULATION OF PARKING ON CERTAIN PUBLIC ROADWAY AREAS

Sec. 2308.351 relates to the removal of unauthorized vehicle from leased right-of-way and was transferred from Section 684.051, Transportation Code; makes conforming changes.

Sec. 2308.352 relates to the removal of unauthorized vehicle from area between parking facility and public roadway; and was transferred from Section 684.052, Transportation Code.

Sec. 2308.353 relates to the removal under governmental entity's authority of unauthorized vehicle parked in right-of-way; and was transferred from Section 684.053, Transportation Code.

Sec. 2308.354 relates to the authority for removal of vehicle from public roadway and was transferred from Section 684.054, Transportation Code; makes conforming changes.

SECTION 2.06 provides that Subchapter E, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, redesignated as Subchapter I, Chapter 2308, Occupations Code, and renumbered as Sections 2308.401 through 2308.407, Occupations Code.

#### SUBCHAPTER I. REGULATION OF TOWING COMPANIES AND PARKING FACILITY OWNERS

Sec. 2308.401 relates to parking facility owner prohibited from receiving financial gain from towing company and was transferred from Section 684.081, Transportation Code.

Sec. 2308.402 relates to a towing company prohibited from financial involvement with parking facility owner and was transferred from Section 684.082, Transportation Code.

Sec. 2308.403 relates to the limitation on liability of parking facility owner for removal or storage of unauthorized vehicle and was transferred from Section 684.083, Transportation Code.

Sec. 2308.404 relates to the civil liability of towing company or parking facility owner for violation of chapter and was transferred from Section 684.084, Transportation Code.

Sec. 2308.405 relates to the violation of chapter and fines; and was transferred from Section 684.085, Transportation Code.

Sec. 2308.406 relates to a violation of chapter and injunction; and was transferred from Section 684.086, Transportation Code.

Sec. 2308.407 relates to minor sign or lettering height variations and was transferred from Section 684.087, Transportation Code.

SECTION 2.07 provides that Sections 685.002 through 685.010, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter J, Chapter 2308, Occupations Code, renumbered as Sections 2308.451 through 2308.459, Occupations Code.

#### SUBCHAPTER J. RIGHTS OF OWNERS AND OPERATORS OF STORED VEHICLES

Sec. 2308.451 relates to the payment of cost of removal and storage of vehicle and was transferred from Section 685.002 Transportation Code.

Sec. 2308.452 relates to the right of owner or operator of vehicle to hearing and was transferred from Section 685.003 Transportation Code.

Sec. 2308.453 relates to jurisdiction and was transferred from Section 685.004 Transportation Code.

Sec. 2308.454 relates to notice to vehicle owner or operator and was transferred from Section 685.005 Transportation Code.

Sec. 2308.455 relates to contents of notice and was transferred from Section 685.006, Transportation Code; makes conforming changes.

Sec. 2308.456 relates to a request for hearing and was transferred from Section 685.007, Transportation Code; makes conforming changes. Requires the owner or operator of a towed vehicle to provide an explanation of why no probable cause existed for the towing of a vehicle.

Sec. 2308.457 relates to a filing fee authorized and was transferred from Section 685.008, Transportation Code.

Sec. 2308.458 relates to the hearing and was transferred from Section 685.009, Transportation Code; makes conforming changes. Amends Section 2308.458 as follows: Subsection (a) is

C.S.S.B. 1118 80(R)

amended to provide that hearings relating to the rights of owners and operators of vehicles removed and placed in storage shall be within 14 days of the date of request for hearing. Subsection (b) is amended to provide that notification for hearings may be made by any method of service specified for notices under Rule 21a of the Texas Rules of Civil Procedure, and that a storage facility to which a vehicle was removed must also be given notice of the hearing. Subsection (e) is amended to allow the court to award the costs of the removal and the reasonable costs of placement of the vehicle in the event that no probable cause was found for the removal of the vehicle.

Sec. 2308.459 relates to an appeal and was transferred from Section 685.010, Transportation Code.

SECTION 2.08 amends Subchapter J, Chapter 2308, Occupations Code, as added by this Act, by adding Section 2308.460.

Section 2308.460 provides that an award may be enforced by the prevailing party by any means available for the enforcement of a civil judgment for a debt.

SECTION 2.09 amends Chapter 2308, Occupations Code, by adding Subchapter K.

#### SUBCHAPTER K. ENFORCEMENT

Sec. 2308.501 provides that the commission may impose administrative penalties under Subchapter F, Chapter 51, regardless of whether the violator holds a registration, permit, or license under this chapter; and provides for a hearing.

Section 2303.502 authorizes the executive director to issue a cease and desist orders as necessary to enforce this chapter; and provides that the attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

Sec. 2308.503 authorizes the department to impose sanctions as provided by Section 51.353.

Sec. 2308.504 provides for criminal penalties for those operating without a permit or license as required by this Act; for employing unlicensed operators; and for falsifying certification or training; an offense is a Class C misdemeanor.

SECTION 2.10 provides that Section 643.253(d), Transportation Code, is transferred to Subchapter K, Chapter 2308, Occupations Code, renumbered as Section 2308.505, Occupations Code.

Sec. 2308.505 relates to criminal penalties and towing; and was transferred from Sec. 643.253(d), Transportation Code. Amends Section 2308.505 by providing that an offense under this section is a misdemeanor with a fine \$200 to \$1,000.

#### ARTICLE 3 - Conforming Amendments

SECTION 3.01. Amends Article 18.23(e), Code of Criminal Procedure to conform to this Act.

SECTION 3.02. Amends Section 101.141(a), Government Code to conform to this Act.

SECTION 3.03. Amends Section 101.161, Government Code to conform to this Act.

SECTION 3.04. Amends Section 2303.155(f), Occupations Code to conform to this Act.

SECTION 3.05. Amends Section 504.508(c), Transportation Code to conform to this Act.

SECTION 3.06. Amends Section 643.002, Transportation Code to conform to this Act.

SECTION 3.07. Amends Section 643.051(a), Transportation Code to conform to this Act.

SECTION 3.08. Amends Section 643.053, Transportation Code to conform to this Act.

C.S.S.B. 1118 80(R)

SECTION 3.09. Amends Sections 643.057(a) and (d), Transportation Code to conform to this Act.

SECTION 3.10. Amends Section 643.058(c), Transportation Code to conform to this Act.

SECTION 3.11. Amends Section 643.061(b), Transportation Code to conform to this Act.

SECTION 3.12. Amends Section 643.253(e), Transportation Code to conform to this Act.

SECTION 3.13. Section 1(1), Chapter 528 Acts of the 76th Legislature, Regular Session, 1999 (Article 178d-1, Vernon's Texas Civil Statutes) to conform to this Act.

#### Article 4 Transition and Effective Date

SECTION 4.01 repeals the following provisions from the Transportation Code: Section 643.001(7); Section 643.101(d); Section 643.202; Section 684.001; Section 685.001; the heading to Subchapter E, Chapter 643; the heading to Chapter 684; the headings to Subchapters A, B, and F, Chapter 684; and the heading to Chapter 685. Also repeals (b) Subchapters E and F, Chapter 2303, Occupations Code.

SECTION 4.02 provides for the first appointments to the Towing and Storage Advisory Board.

SECTION 4.03 (a) requires Texas Department of Transportation and Texas Department of Licensing and Regulation to develop a transition plan for transferring the functions performed by Texas Department of Transportation relating to vehicle towing and storage, to Texas Department of Licensing and Regulation as soon as practicable after the effective date of this Act. Requires the plan to include a timetable with specific steps and deadlines needed to complete the transfer.

(b) Sets forth the functions and activities; rules or forms; references in law or administrative rule; complaints, investigations, or other proceedings; employee positions; money, contracts, leases, property, and obligations; property in Texas Department of Transportation's custody; and unexpended and unobligated balance of any money appropriated that are to be transferred to Texas Department of Licensing and Regulation on January 1, 2008, in accordance with the transition plan under Subsection (a).

(c) Authorizes Texas Department of Transportation to agree with Texas Department of Licensing and Regulation to transfer any property of Texas Department of Transportation to the department in order to implement the transfer required by this Act before January 1, 2008.

(d) Requires Texas Department of Transportation to continue to perform the functions and activities relating to vehicle towing and storage, as if it had not been amended by this Act, in the period beginning with the effective date of this Act and ending January 1, 2008. Continues the former law in effect for that purpose.

Section 4.04 requires the department to adopt rules relating to an application for an original license or permit by April 1, 2008 .

Section 4.05 provides for grandfather permits and licenses for applications filed before July 1, 2008.

Section 4.06 Effective date.

#### **EFFECTIVE DATE**

(a) Except as provided by Subsections (b) and (c) of this section, this Act takes effect September 1, 2007.



(b) Except as provided by Subsection (c) of this section, Section 2308.504, Occupations Code, as added by this Act, and Subchapters C and D, Chapter 2308, Occupations Code, as added by this Act, take effect September 1, 2008.

(c) Section 2308.158, Occupations Code, as added by this Act, takes effect September 1, 2009.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

Deletes Section 2303.051(3) requiring vehicle storage facilities applying for a license to submit evidence of compliance with drug testing requirements of 49 C.F.R. Part 382 and provide for investigation of criminal convictions of the applicant or applicant's employees.

Revises Section 2303.055 by providing that the department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.

Amends the heading to Section 2303.101, Occupations Code to read as follows: FACILITY LICENSE REQUIRED.

Adds Section 2303.1015 providing that a person may not work at a vehicle storage facility without a license issued under this chapter.

Amends Sections 2303.102(a), Occupations Code by restoring "commission." Deletes (3) each conviction of a felony, or of a misdemeanor punishable by confinement in jail or by a fine exceeding \$200, that was obtained against the applicant or a partner or officer of the applicant in the three years preceding the date of application.

Amends Section 2303.151(c), Occupations Code providing that a vehicle storage facility may verify ownership of an out-of-state vehicle by contacting the appropriate agency in writing or electronically.

Amends Section 2303.155(b), Occupations Code, providing that vehicle storage facility may charge a fee in an amount set by the commission for the remediation, recovery, or capture of an environmental or biological hazard.

Deletes Section 2303.156 (d) An inspector who discovers a violation of this chapter or a rule or order of the commission or executive director shall: (1) provide written notice of the violation to the license holder on a form prescribed by the department; ; and (2) file a complaint with the executive director. Renumbers subsequent section and revises by clarifying that department may charge a fee for risk-based inspections, not the regular inspections.

Adds Section 2303.160 requiring vehicle storage facilities to have a drug testing policy. A vehicle storage facility may adopt the model policy developed by the commission or may establish their own policy approved by the commission. Authorizes the commission to develop a model drug testing policy that is designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. Provides that the policy must include at least one scheduled test annually and additional random tests.

Adds Section 2303.304 provides that the commission may impose administrative penalties under Subchapter F, Chapter 51, regardless of whether the violator holds a registration, permit, or license under this chapter; and provides for a hearing.

Adds Section 2303.305 authorizes the executive director to issue a cease and desist orders as necessary to enforce this chapter; and provides that the attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

Amends Section 2308.001 by adding definition of vehicle owner.

Adds Section 2308.003 that requires the department to study the fees charged by license and permit holders for nonconsent tows, compliance of license and permit holders with local regulations governing towing fees, and consumer complaints related to fees for nonconsent tows; requires the department to report findings to the legislature no later than January 1, 2009.

Amends Section 2308.051 by deleting (8) and replacing with a representative of an insurer writing automobile insurance in Texas.

Deletes Section 2308.059 (c) An inspector who discovers a violation of this chapter or a rule or order of the commission or executive director shall: (1) provide written notice of the violation to the license holder on a form prescribed by the department; ; and (2) file a complaint with the executive director. Renumbers subsequent section and revises by clarifying that department may charge a fee for risk-based inspections, not the regular inspections.

Deletes Section 2308.107 relating to conditional acceptance of application.

Deletes Section 2308.108 relating to additional permits and fees.

Amends Section 2308.110 by deleting unnecessary language regarding insurance requirements.

Amends Section 2308.151 by deleting executive director and replacing with commission.

Amends Section 2308.155 by deleting examination requirement for consent towing operators license.

Amends Section 2308.156 by authorizing the department to conduct examinations or contract for examinations; provides for the content of examinations; and directs executive director uniform standard for acceptable performance on the examinations.

Deletes Section 2308.157 relating to examination results; renumbers subsequent section.

Amends Section 2308.157 (previously Section 2308.158) by deleting (a).

Amends Section 2308.158 by providing that continuing education program will be approved by commission; establishes requirements for continuing education provider.

Deletes Section 2308.159 relating to license renewal.

Amends Section 2308.201 by deleting “in addition to the registration requirements of Subchapter B, a”

Amends Section 2308.202 by requiring that local governments to set nonconsent towing rates.

Amends Section 2308.206 by providing that a license or permit holder may not charge a nonconsent tow fee that is greater than the fee listed in the schedule most recently submitted to the department.

Amends Section 2308.207 by requiring that vehicle storage fees must be posted at the storage facility. Also requires that nonconsent towing fees be available upon request and a sign be posted stating that the fee schedule is available.

Amends Section 2308.254 by deleting requirement that a peace officer must authorize removal of a vehicle obstructing a private driveway.

Amends Section 2308.456 by requiring that the owner or operator of a towed vehicle to provide an explanation of why no probable cause existed for the towing of a vehicle.

Amends Section 2308.458 relates to the hearing and was transferred from Section 685.009, Transportation Code. Amends Section 2308.458 as follows: Subsection (a) is amended to provide that hearings relating to the rights of owners and operators of vehicles removed and placed in storage shall be within 14 days of the date of request for hearing. Subsection (b) is

amended to provide that notification for hearings may be made by any method of service specified for notices under Rule 21a of the Texas Rules of Civil Procedure, and that a storage facility to which a vehicle was removed must also be given notice of the hearing. Subsection (e) is amended to allow the court to award the costs of the removal and the reasonable costs of placement of the vehicle in the event that no probable cause was found for the removal of the vehicle.

Adds Section 2308.503 authorizing the department to impose sanctions as provided by Section 51.353.

Adds SECTION 3.06. Section 643.002, Transportation Code to conform to this Act.

Adds SECTION 3.07. Section 643.051(a), Transportation Code to conform to this Act.

Adds SECTION 3.08. Section 643.053, Transportation Code to conform to this Act.

Adds SECTION 3.09. Sections 643.057(a) and (d), Transportation Code to conform to this Act.

Adds SECTION 3.10. Section 643.058(c), Transportation Code to conform to this Act.

Adds SECTION 3.11. Section 643.061(b), Transportation Code to conform to this Act.

Amends SECTION 4.01 by repealing Section 643.001(7) and Section 643.101(d), Transportation Code; and Subchapters E and F, Chapter 2303, Occupations Code.

Amends SECTION 4.03 by providing a more detailed transition plan for the transfer of responsibilities from Texas Department of Transportation to the Texas Department of Licensing and Regulation.