

By: Carona

S.B. No. 1118

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of tow trucks, tow truck operators, and vehicle storage facilities; providing penalties.

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

ARTICLE 1. LICENSING AND REGULATION OF TOWING AND VEHICLE STORAGE

SECTION 1.01. Subdivisions (2), (3), and (4), Section 2303.002, Occupations Code, are amended to read as follows:

(2) "Commission" means the Texas ~~[Transportation]~~ Commission of Licensing and Regulation.

(3) "Department" means the Texas Department of Licensing and Regulation ~~[Transportation]~~.

(4) "Executive director ~~[Director]~~" means the executive director of the department ~~[or a person designated by the executive director who is not below the rank of division or special office director]~~.

SECTION 1.02. Section 2303.051, Occupations Code, is amended to read as follows:

Sec. 2303.051. RULEMAKING: LICENSE REQUIREMENTS~~[+ SANCTIONS]~~. The commission shall adopt rules that:

(1) establish the requirements for a person to be licensed to operate a vehicle storage facility to ensure that the facility maintains adequate standards for the care of stored vehicles; ~~[and]~~

(2) relate to the administrative sanctions that may be

1 imposed on a person licensed under this chapter;

2 (3) require an applicant for a license to submit
3 evidence that the applicant is in compliance with the drug testing
4 requirements of 49 C.F.R. Part 382, as those requirements exist on
5 September 1, 2007, if the requirements are applicable to the
6 applicant; and

7 (4) govern the administration of this chapter.

8 SECTION 1.03. Subchapter B, Chapter 2303, Occupations Code,
9 is amended by adding Sections 2303.055, 2303.056, 2303.057, and
10 2303.058 to read as follows:

11 Sec. 2303.055. EXAMINATION OF CRIMINAL CONVICTION. The
12 department may conduct an examination of any criminal conviction of
13 an applicant, including by obtaining any criminal history record
14 information permitted by law.

15 Sec. 2303.056. PERIODIC AND RISK-BASED INSPECTIONS.

16 (a) The department may enter and inspect at any time during
17 business hours:

18 (1) the place of business of any person regulated
19 under this chapter; or

20 (2) any place in which the department has reasonable
21 cause to believe that a license holder is in violation of this
22 chapter or in violation of a rule or order of the commission or
23 executive director.

24 (b) At least once every two years, the department shall
25 inspect a vehicle storage facility that holds a license under this
26 chapter.

27 (c) The department shall conduct additional inspections

1 based on a schedule of risk-based inspections using the following
2 criteria:

3 (1) the type and nature of the vehicle storage
4 facility;

5 (2) the inspection history of the vehicle storage
6 facility;

7 (3) any history of violations involving the vehicle
8 storage facility; and

9 (4) any other factor determined by the commission by
10 rule.

11 (d) The vehicle storage facility shall pay a fee for each
12 inspection performed under Subsection (c). The commission by rule
13 shall set the amount of the fee.

14 Sec. 2303.057. PERSONNEL. The department may employ
15 personnel necessary to administer and enforce this chapter.

16 Sec. 2303.058. ADVISORY BOARD. The Towing and Storage
17 Advisory Board under Chapter 2308 shall advise the commission in
18 adopting vehicle storage rules under this chapter.

19 SECTION 1.04. Subsections (a) and (b), Section 2303.102,
20 Occupations Code, are amended to read as follows:

21 (a) The commission by rule shall determine the types of
22 information to be included in an application for a license under
23 this chapter on a form prescribed by the executive director.

24 (b) The rules adopted [~~by the commission~~] under this section
25 must require the application [~~to be made under oath and~~] to list:

26 (1) the name and address of each partner, if the
27 applicant is a partnership; and

1 (2) the name and address of the president, secretary,
2 and treasurer of the corporation, if the applicant is a corporation
3 [~~, and~~

4 ~~[(3) each conviction of a felony, or of a misdemeanor~~
5 ~~punishable by confinement in jail or by a fine exceeding \$200, that~~
6 ~~was obtained against the applicant or a partner or officer of the~~
7 ~~applicant in the three years preceding the date of application].~~

8 SECTION 1.05. Subsection (c), Section 2303.151,
9 Occupations Code, is amended to read as follows:

10 (c) It is a defense to an action initiated by the department
11 for a violation of this section that the operator of the facility
12 unsuccessfully attempted in writing or electronically to obtain
13 information from the governmental entity with which the vehicle is
14 registered.

15 SECTION 1.06. Subsection (b), Section 2303.155,
16 Occupations Code, is amended to read as follows:

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

20 (1) a notification fee set in a reasonable amount for
21 providing notice under this subchapter, including notice under
22 Section 2303.154(c);

23 (2) an impoundment fee of \$20 for any action that:

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

26 (B) is necessary to preserve, protect, or service
27 a vehicle stored or parked at the facility;

1 (3) a daily storage fee of:

2 (A) not less than \$5 and not more than \$20 for
3 each day or part of a day the vehicle is stored at the facility if
4 the vehicle is not longer than 25 feet; or

5 (B) \$35 for each day or part of a day the vehicle
6 is stored at the facility if the vehicle is longer than 25 feet;
7 ~~[and]~~

8 (4) any fee that is required to be submitted to a law
9 enforcement agency, the agency's authorized agent, or a
10 governmental entity; and

11 (5) a fee in an amount set by the commission for the
12 remediation, recovery, or capture of an environmental or biological
13 hazard.

14 SECTION 1.07. Subchapter D, Chapter 2303, Occupations Code,
15 is amended by adding Sections 2303.160 and 2303.161 to read as
16 follows:

17 Sec. 2303.160. DRUG TESTING OF EMPLOYEES. (a) A license
18 holder shall establish a drug testing policy for employees of the
19 vehicle storage facility operated by the license holder. A license
20 holder that establishes a drug testing policy under this subsection
21 may adopt the model drug testing policy adopted by the commission or
22 may use another drug testing policy.

23 (b) The commission by rule shall adopt a model drug testing
24 policy for use by license holders. The model drug testing policy
25 must be designed to ensure the safety of the public through
26 appropriate drug testing and to protect the rights of employees.
27 The model drug testing policy must:

1 (1) require at least one scheduled drug test each year
2 for each employee of a vehicle storage facility who has direct
3 contact with the public; and

4 (2) authorize random, unannounced drug testing for
5 employees described by Subdivision (1).

6 Sec. 2303.161. CRIMINAL BACKGROUND CHECK OF EMPLOYEES.

7 (a) A license holder shall establish a policy to examine the
8 criminal history record information of employees of the vehicle
9 storage facility operated by the license holder. A license holder
10 that establishes a criminal background check policy under this
11 subsection may adopt the model policy adopted by the commission or
12 may use another criminal background check policy.

13 (b) The commission by rule shall adopt a model criminal
14 background check policy for use by license holders. The model
15 criminal background check policy must be designed to ensure the
16 safety of the public.

17 SECTION 1.08. Subtitle A, Title 14, Occupations Code, is
18 amended by adding Chapter 2308 to read as follows:

19 CHAPTER 2308. VEHICLE TOWING

20 SUBCHAPTER A. GENERAL PROVISIONS

21 Sec. 2308.001. SHORT TITLE. This chapter may be cited as
22 the Texas Towing Act.

23 Sec. 2308.002. DEFINITIONS. In this chapter:

24 (1) "Advisory board" means the Towing and Storage
25 Advisory Board.

26 (2) "Commission" means the Texas Commission of
27 Licensing and Regulation.

1 (3) "Consent tow" means any tow of a motor vehicle
2 initiated by the owner or operator of the vehicle or by a person who
3 has possession, custody, or control of the vehicle. The term does
4 not include a tow of a motor vehicle initiated by a peace officer
5 investigating a traffic accident or a traffic incident that
6 involves the vehicle.

7 (4) "Department" means the Texas Department of
8 Licensing and Regulation.

9 (5) "Driver's license" has the meaning assigned by
10 Section 521.001, Transportation Code.

11 (6) "Nonconsent tow" means any tow of a motor vehicle
12 that is not a consent tow.

13 (7) "Parking facility" means public or private
14 property used, wholly or partly, for restricted or paid vehicle
15 parking. The term includes:

16 (A) a restricted space on a portion of an
17 otherwise unrestricted parking facility; and

18 (B) a commercial parking lot, a parking garage,
19 and a parking area serving or adjacent to a business, church,
20 school, home, apartment complex, property governed by a property
21 owners' association, or government-owned property leased to a
22 private person, including:

23 (i) a portion of the right-of-way of a
24 public roadway that is leased by a governmental entity to the
25 parking facility owner; and

26 (ii) the area between the facility's
27 property line abutting a county or municipal public roadway and the

1 center line of the roadway's drainage way or the curb of the
2 roadway, whichever is farther from the facility's property line.

3 (8) "Parking facility owner" means:

4 (A) an owner or operator of a parking facility,
5 including a lessee, employee, or agent of an owner or operator;

6 (B) a property owners' association having
7 control under a dedicatory instrument, as that term is defined in
8 Section 202.001, Property Code, over assigned or unassigned parking
9 areas; or

10 (C) a property owner having an exclusive right
11 under a dedicatory instrument, as that term is defined in Section
12 202.001, Property Code, to use a parking space.

13 (9) "Property owners' association" has the meaning
14 assigned by Section 202.001, Property Code.

15 (10) "Public roadway" means a public street, alley,
16 road, right-of-way, or other public way, including paved and
17 unpaved portions of the right-of-way.

18 (11) "Tow truck" means a motor vehicle, including a
19 wrecker, equipped with a mechanical device used to tow, winch, or
20 otherwise move another motor vehicle.

21 (12) "Towing company" means an individual,
22 association, corporation, or other legal entity that controls,
23 operates, or directs the operation of one or more tow trucks over a
24 public roadway in this state but does not include a political
25 subdivision of the state.

26 (13) "Unauthorized vehicle" means a vehicle parked,
27 stored, or located on a parking facility without the consent of the

1 parking facility owner.

2 (14) "Vehicle" means a device in, on, or by which a
3 person or property may be transported on a public roadway. The term
4 includes an operable or inoperable automobile, truck, motorcycle,
5 recreational vehicle, or trailer but does not include a device
6 moved by human power or used exclusively on a stationary rail or
7 track.

8 (15) "Vehicle storage facility" means a vehicle
9 storage facility, as defined by Section 2303.002, that is operated
10 by a person who holds a license issued under Chapter 2303 to operate
11 the facility.

12 Sec. 2308.003. STUDY OF NONCONSENT TOWING FEES. (a) The
13 department shall study the fees charged by license and permit
14 holders for nonconsent tows, compliance of license and permit
15 holders with local regulations governing towing fees, and consumer
16 complaints related to fees for nonconsent tows. Not later than
17 January 1, 2009, the department shall report to the legislature the
18 findings of the study, including any recommendations for state
19 regulation of towing fees.

20 (b) This section expires September 1, 2009.

21 [Sections 2308.004-2308.050 reserved for expansion]

22 SUBCHAPTER B. ADVISORY BOARD

23 Sec. 2308.051. TOWING AND STORAGE ADVISORY BOARD. (a) The
24 advisory board consists of the following members appointed by the
25 presiding officer of the commission with the approval of the
26 commission:

27 (1) one representative of a towing company operating

1 in a city with a population of less than one million;

2 (2) one representative of a towing company operating
3 in a city with a population of one million or more;

4 (3) one owner of a vehicle storage facility located in
5 a city with a population of less than one million;

6 (4) one owner of a vehicle storage facility located in
7 a city with a population of one million or more;

8 (5) one parking facility owner;

9 (6) one law enforcement officer from a city with a
10 population of less than one million; and

11 (7) one law enforcement officer from a city with a
12 population of one million or more.

13 (b) The advisory board must include representation for each
14 classification of towing.

15 (c) An appointment to the advisory board shall be made
16 without regard to the race, color, disability, sex, religion, age,
17 or national origin of the appointee.

18 Sec. 2308.052. TERMS; VACANCIES. (a) Advisory board
19 members serve terms of six years, with the terms of two or three
20 members, as appropriate, expiring on February 1 of each
21 odd-numbered year.

22 (b) A member may not serve more than two full consecutive
23 terms.

24 (c) If a vacancy occurs during a term, the presiding officer
25 of the commission shall appoint a replacement who meets the
26 qualifications of the vacated position to serve for the remainder
27 of the term.

1 Sec. 2308.053. PRESIDING OFFICER. The presiding officer of
2 the commission shall appoint one of the advisory board members to
3 serve as presiding officer of the advisory board for a term of one
4 year. The presiding officer of the advisory board may vote on any
5 matter before the advisory board.

6 Sec. 2308.054. COMPENSATION; REIMBURSEMENT OF EXPENSES.
7 Advisory board members may not receive compensation but are
8 entitled to reimbursement for actual and necessary expenses
9 incurred in performing the functions of the advisory board, subject
10 to the General Appropriations Act.

11 Sec. 2308.055. MEETINGS. The advisory board shall meet
12 twice annually and may meet at other times at the call of the
13 presiding officer of the commission or the executive director.

14 Sec. 2308.056. GENERAL POWERS AND DUTIES. The executive
15 director or commission, as appropriate, may take action as
16 necessary to administer and enforce this chapter.

17 Sec. 2308.057. RULES. (a) The commission shall adopt
18 rules for permitting tow trucks and licensing towing operators.

19 (b) The commission by rule shall adopt standards of conduct
20 for license and permit holders under this chapter.

21 Sec. 2308.058. FEES. The commission shall establish and
22 collect reasonable and necessary fees in amounts sufficient to
23 cover the costs of administering this chapter.

24 Sec. 2308.059. PERIODIC AND RISK-BASED INSPECTIONS.
25 (a) The department may enter and inspect at any time during
26 business hours:

27 (1) the place of business of any person regulated

1 under this chapter; or

2 (2) any place in which the department has reasonable
3 cause to believe that a license or permit holder is in violation of
4 this chapter or in violation of a rule or order of the commission or
5 executive director.

6 (b) The department shall conduct additional inspections
7 based on a schedule of risk-based inspections using the following
8 criteria:

9 (1) the type and nature of the towing company or
10 operator;

11 (2) the inspection history;

12 (3) any history of complaints involving the towing
13 company or operator; and

14 (4) any other factor determined by the commission by
15 rule.

16 (c) The towing company shall pay a fee for each inspection
17 performed under this section. The commission shall set the amount
18 of the fee by rule.

19 Sec. 2308.060. POWERS AND DUTIES OF ADVISORY BOARD. The
20 advisory board shall provide advice and recommendations to the
21 department on technical matters relevant to the administration and
22 enforcement of this chapter, including examination content,
23 licensing standards, and continuing education requirements.

24 Sec. 2308.061. PERSONNEL. The department may employ
25 personnel necessary to administer and enforce this chapter.

26 [Sections 2308.062-2308.100 reserved for expansion]

1 SUBCHAPTER C. TOW TRUCK PERMIT REQUIREMENTS

2 Sec. 2308.101. PERMIT REQUIRED. A tow truck may not be used
3 for consent towing or nonconsent towing on a public roadway in this
4 state unless an appropriate permit has been issued for the tow truck
5 under this subchapter. Each tow truck requires a separate permit.

6 Sec. 2308.102. APPLICATION REQUIREMENTS. (a) An
7 applicant for a permit under this subchapter must submit to the
8 department:

9 (1) a completed application on a form prescribed by
10 the executive director;

11 (2) evidence that the applicant is in compliance with
12 the drug testing requirements of 49 C.F.R. Part 382, as those
13 requirements exist on September 1, 2007;

14 (3) evidence of insurance or financial responsibility
15 required under this subchapter;

16 (4) the required fees; and

17 (5) any other information required by the executive
18 director.

19 (b) The department may conduct an examination of any
20 criminal conviction of an applicant, including by obtaining any
21 criminal history record information permitted by law.

22 Sec. 2308.103. REQUIREMENTS FOR INCIDENT MANAGEMENT TOWING
23 PERMIT. (a) An incident management towing permit is required for
24 a tow truck used to perform any nonconsent tow initiated by a peace
25 officer, including a tow authorized under Section 545.3051,
26 Transportation Code.

27 (b) To be eligible for an incident management towing permit,

1 an applicant must submit evidence that:

2 (1) the tow truck is equipped to tow light-duty or
3 heavy-duty vehicles according to the manufacturer's towing
4 guidelines;

5 (2) the applicant has at least \$500,000 of liability
6 insurance for the tow truck; and

7 (3) the applicant has at least \$50,000 of cargo
8 insurance for the tow truck.

9 (c) A tow truck permitted under this section may also be
10 used for private property towing and consent towing.

11 (d) When a tow truck is used for a nonconsent tow initiated
12 by a peace officer under Section 545.3051, Transportation Code, the
13 permit holder is an agent of law enforcement and is subject to
14 Section 545.3051(e), Transportation Code.

15 Sec. 2308.104. REQUIREMENTS FOR PRIVATE PROPERTY TOWING
16 PERMIT. (a) A private property towing permit is required for a tow
17 truck used to perform a nonconsent tow authorized by a parking
18 facility owner under this chapter.

19 (b) To be eligible for a private property towing permit, an
20 applicant must submit evidence that:

21 (1) the tow truck is equipped to tow light-duty or
22 heavy-duty vehicles according to the manufacturer's towing
23 guidelines;

24 (2) the applicant has at least \$300,000 of liability
25 insurance for the tow truck; and

26 (3) the applicant has at least \$50,000 of cargo
27 insurance for the tow truck.

1 (c) A tow truck permitted under this section may also be
2 used for consent towing but not for incident management towing.

3 Sec. 2308.105. REQUIREMENTS FOR CONSENT TOWING PERMIT.

4 (a) A consent towing permit is required for a tow truck used to
5 perform a consent tow authorized by the vehicle owner.

6 (b) To be eligible for a consent towing permit, an applicant
7 must submit evidence that:

8 (1) the tow truck is equipped to tow light-duty or
9 heavy-duty vehicles according to the manufacturer's towing
10 guidelines; and

11 (2) the applicant has at least \$300,000 of liability
12 insurance for the tow truck.

13 (c) A tow truck permitted under this section may not be used
14 for nonconsent towing, including incident management towing and
15 private property towing.

16 Sec. 2308.106. DEPARTMENT APPROVAL; ISSUANCE OF PERMIT.

17 (a) The department shall issue a permit under this subchapter to
18 an applicant who meets the requirements for a permit. The
19 department may deny an application if the applicant has had a permit
20 revoked under this chapter.

21 (b) The department shall issue a certificate containing a
22 single permit number for each tow truck, regardless of whether the
23 permit holder holds more than one permit.

24 Sec. 2308.107. PERMIT RENEWAL. (a) A permit issued under
25 this chapter is valid for one year. The department may adopt a
26 system under which permits expire at different times during the
27 year.

1 (b) The department shall notify the permit holder at least
2 30 days before the date a permit expires. The notice must be in
3 writing and sent to the permit holder's last known address
4 according to the records of the department.

5 (c) A permit holder may renew a permit under this chapter
6 by:

7 (1) paying a fee for each tow truck; and
8 (2) providing to the department evidence of continuing
9 insurance or financial responsibility in an amount required by this
10 chapter.

11 Sec. 2308.108. CAB CARDS. (a) The department shall issue
12 a cab card for each tow truck issued a permit. The cab card must:

13 (1) show the permit number of the certificate issued
14 under Section 2308.106(b);

15 (2) show the type of permit issued;

16 (3) show the vehicle unit number;

17 (4) show the vehicle identification number; and

18 (5) contain a statement that the vehicle has been
19 issued a permit under this subchapter.

20 (b) The department shall issue a cab card when the
21 department issues or renews a permit under this subchapter.

22 (c) A permit holder must keep the cab card in the cab of each
23 permitted tow truck.

24 (d) The department may order a permit holder to surrender a
25 cab card if the permit is suspended or revoked under this chapter.

26 (e) If the department determines that the cab card system
27 described by Subsections (a), (b), and (c) is not an efficient means

1 of enforcing this subchapter, the executive director of the
2 department by rule may adopt an alternative method that is
3 accessible by law enforcement personnel in the field and provides
4 for the enforcement of the permit requirements of this subchapter.

5 (f) A cab card or a permit issued under the alternative
6 method described in Subsection (e) must be valid for the same
7 duration as a certificate issued under Section 2308.106.

8 Sec. 2308.109. DISPLAY OF INFORMATION ON TOW TRUCK. (a) A
9 permit holder shall display on each permitted tow truck:

- 10 (1) the permit holder's name;
11 (2) the permit holder's telephone number;
12 (3) the city and state where the permit holder is
13 located; and
14 (4) the permit number for the tow truck.

15 (b) The information required to be displayed must be:

- 16 (1) printed in letters and numbers that are at least
17 two inches high and in a color that contrasts with the color of the
18 background surface; and
19 (2) permanently affixed in conspicuous places on both
20 sides of the tow truck.

21 Sec. 2308.110. FINANCIAL RESPONSIBILITY. (a) A permit
22 holder shall maintain liability insurance for each tow truck
23 according to the requirements under this subchapter.

24 (b) Unless state law permits a tow truck to be self-insured,
25 any insurance required for a tow truck must be obtained from an
26 insurer authorized to do business in this state.

27 (c) An applicant or permit holder must file with the

1 department evidence of insurance as required by this subchapter.

2 (d) A permit holder shall keep evidence of insurance in a
3 form approved by the department in the cab of each vehicle requiring
4 registration the carrier operates.

5 [Sections 2308.111-2308.150 reserved for expansion]

6 SUBCHAPTER D. LICENSE REQUIREMENTS

7 Sec. 2308.151. LICENSE REQUIRED. A person may not perform
8 towing operations unless the person holds an appropriate license
9 under this subchapter.

10 Sec. 2308.152. GENERAL LICENSE APPLICATION REQUIREMENTS.
11 An applicant for a license under this subchapter must submit to the
12 department:

13 (1) a completed application on a form prescribed by
14 the executive director;

15 (2) the required fees; and

16 (3) any other information required by commission rule.

17 Sec. 2308.153. INCIDENT MANAGEMENT TOWING OPERATOR'S
18 LICENSE. (a) An incident management towing operator's license is
19 required to operate a tow truck permitted under Section 2308.103.

20 (b) An applicant for an incident management towing
21 operator's license must:

22 (1) be a licensed Texas driver;

23 (2) be certified by the National Drivers Certification
24 Program of the Towing and Recovery Association of America or
25 another certification program approved by the department;

26 (3) have completed a truck and bus driver/commercial
27 vehicle operation course approved by the department; and

1 (4) pass an examination.

2 Sec. 2308.154. PRIVATE PROPERTY TOWING OPERATOR'S LICENSE.

3 (a) A private property towing operator's license is required to
4 operate a tow truck permitted under Section 2308.104.

5 (b) An applicant for a private property towing operator's
6 license must:

7 (1) be a licensed Texas driver;

8 (2) be certified by the National Drivers Certification
9 Program of the Towing and Recovery Association of America or
10 another certification program approved by the department; and

11 (3) pass an examination.

12 Sec. 2308.155. CONSENT TOWING OPERATOR'S LICENSE. (a) A
13 consent towing operator's license is required to operate a tow
14 truck permitted under Section 2308.105.

15 (b) An applicant for a consent towing operator's license
16 must:

17 (1) be a licensed Texas driver; and

18 (2) pass an examination.

19 Sec. 2308.156. EXAMINATIONS. (a) Examinations required
20 by this subchapter shall be conducted at locations throughout the
21 state.

22 (b) The department may accept, develop, or contract for the
23 examinations required by this subchapter, including the
24 administration of the examinations. Each examination must test the
25 knowledge of the applicant about equipment and procedures used in
26 the types of towing authorized by the applicable license.

27 (c) The executive director of the department shall

1 determine uniform standards for acceptable performance on an
2 examination.

3 Sec. 2308.157. NONTRANSFERABILITY OF LICENSE. A license
4 issued by the executive director of the department is valid
5 throughout this state and is not transferable.

6 Sec. 2308.158. CONTINUING EDUCATION. To renew an incident
7 management towing operator's license, the license holder must
8 complete a professional development-truck and bus
9 driver/commercial vehicle operation course approved by the
10 commission.

11 ARTICLE 2. CONSOLIDATION OF LAWS RELATED TO TOWING

12 SECTION 2.01. Sections 643.201 and 643.203 through 643.208,
13 Transportation Code, are transferred to Chapter 2308, Occupations
14 Code, redesignated as Subchapter E, Chapter 2308, Occupations Code,
15 renumbered as Sections 2308.201 through 2308.207, Occupations
16 Code, and amended to read as follows:

17 SUBCHAPTER E. LOCAL REGULATION OF TOWING

18 Sec. 2308.201 [~~643.201~~]. TOW TRUCK REGULATION BY POLITICAL
19 SUBDIVISIONS. (a) A [~~In addition to the registration requirements~~
20 ~~of Subchapter B, a~~] political subdivision of this state may
21 regulate the operation of a tow truck to the extent allowed by
22 federal law, except that a political subdivision may not issue a
23 more restrictive regulation for the use of lighting equipment on a
24 tow truck than is imposed by Title 7, Transportation Code [~~this~~
25 ~~title~~].

26 (b) A political subdivision may not require the
27 registration of a tow truck that performs consent tows in the

1 political subdivision unless the owner of the tow truck has a place
2 of business in the territory of the political subdivision.

3 (c) A political subdivision may require the registration of
4 a tow truck that performs a nonconsent tow in the political
5 subdivision, regardless of whether the owner of the tow truck has a
6 place of business in the territory of the political subdivision.

7 (d) A political subdivision may not require a person who
8 holds a driver's license or commercial driver's license to obtain a
9 license or permit for operating a tow truck unless the person
10 performs nonconsent tows in the territory of the political
11 subdivision. A fee charged for a license or permit may not exceed
12 \$15.

13 [~~(e) In this section:~~

14 [~~(1) "Commercial driver's license" has the meaning~~
15 ~~assigned by Section 522.003.~~

16 [~~(2) "Consent tow" means any tow of a motor vehicle~~
17 ~~initiated by the owner or operator of the vehicle or by a person who~~
18 ~~has possession, custody, or control of the vehicle. The term does~~
19 ~~not include a tow of a motor vehicle initiated by a peace officer~~
20 ~~investigating a traffic accident or a traffic incident that~~
21 ~~involves the vehicle.~~

22 [~~(3) "Driver's license" has the meaning assigned by~~
23 ~~Section 521.001.~~

24 [~~(4) "Nonconsent tow" means any tow of a motor vehicle~~
25 ~~that is not a consent tow.]~~

26 Sec. 2308.202 [~~643.203~~]. REGULATION BY POLITICAL
27 SUBDIVISIONS OF FEES FOR NONCONSENT TOWS. The governing body of a

1 political subdivision shall ~~[may]~~ regulate the fees that may be
2 charged or collected in connection with a nonconsent tow
3 originating in the territory of the political subdivision.

4 Sec. 2308.203 ~~[643.204]~~. TOWING FEE STUDIES. (a) The
5 governing body of a political subdivision that regulates nonconsent
6 tow fees shall establish procedures by which a towing company may
7 request that a towing fee study be performed.

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

13 Sec. 2308.204 ~~[643.205]~~. FEES FOR NONCONSENT TOWS IN OTHER
14 AREAS. (a) In an area in which no political subdivision regulates
15 the fees that may be charged or collected for a nonconsent tow from
16 private property, a towing company may charge and collect a fee for
17 the tow of a motor vehicle from private property in an amount not to
18 exceed an amount equal to 150 percent of the fee that the towing
19 company would have been authorized to charge for a nonconsent tow
20 made at the request of a peace officer of the political subdivision
21 in which the private property is located.

22 (b) A towing company may charge and collect a fee for the tow
23 of a vehicle, with a gross vehicle weight rating in excess of 26,000
24 pounds, from private property in an amount not to exceed an amount
25 equal to 125 percent of the fee that the towing company would have
26 been authorized to charge for a nonconsent tow made at the request
27 of a peace officer of the political subdivision in which the private

1 property is located.

2 Sec. 2308.205 [~~643.206~~]. STORAGE OF TOWED VEHICLES. (a) A
3 towing company that makes a nonconsent tow shall tow the vehicle to
4 a vehicle storage facility that is operated by a person who holds a
5 license to operate the facility under Chapter 2303, [~~Occupations~~
6 ~~Code~~], unless the towing company agrees to take the vehicle to a
7 location designated by the vehicle's owner.

8 (b) A storage or notification fee imposed in connection with
9 a motor vehicle towed to a vehicle storage facility is governed by
10 Chapter 2303[~~, Occupations Code~~].

11 (c) Except as provided by this chapter, Article 18.23, Code
12 of Criminal Procedure, or Chapter 2303[~~, Occupations Code~~], a fee
13 may not be charged or collected without the prior written consent of
14 the vehicle owner or operator.

15 Sec. 2308.206 [~~643.207~~]. REQUIRED FILING. (a) Before
16 January 31 of each year, a towing company shall file with the
17 department a schedule showing each towing fee that the towing
18 company charges or collects in connection with a nonconsent tow.

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

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

26 (d) The department shall make towing fee schedules
27 available on the department's Internet website. The department

1 shall make no determination as to the reasonableness of a towing fee
2 schedule.

3 (e) A license or permit holder may not charge a fee for a
4 nonconsent tow that is greater than the fee listed in the schedule
5 most recently submitted to the department under this section.

6 Sec. 2308.207 [~~643.208~~]. REQUIRED POSTING. (a) All towing
7 and storage fees shall be posted at the licensed vehicle storage
8 facility to which the motor vehicle has been delivered and shall be
9 posted in view of the person who claims the vehicle.

10 (b) A vehicle storage facility to which a vehicle is
11 delivered after a nonconsent tow shall post a sign in one inch
12 letters stating "Nonconsent tow fees schedule available on
13 request." The vehicle storage facility shall provide a copy of the
14 nonconsent towing fees schedule to a person who requests a copy of
15 the fees.

16 SECTION 2.02. Section 684.101, Transportation Code, is
17 transferred to Subchapter E, Chapter 2308, Occupations Code, and
18 renumbered as Section 2308.208, Occupations Code, to read as
19 follows:

20 Sec. 2308.208 [~~684.101~~]. MUNICIPAL ORDINANCE REGULATING
21 UNAUTHORIZED VEHICLES. A municipality may adopt an ordinance that
22 is identical to this chapter or that imposes additional
23 requirements that exceed the minimum standards of this chapter but
24 may not adopt an ordinance conflicting with this chapter.

25 SECTION 2.03. Sections 684.011, 684.012, 684.0125,
26 684.013, 684.014, and 684.015, Transportation Code, are
27 transferred to Chapter 2308, Occupations Code, redesignated as

1 Subchapter F, Chapter 2308, Transportation Code, renumbered as
2 Sections 2308.251 through 2308.256, Occupations Code, and amended
3 to read as follows:

4 SUBCHAPTER F. UNAUTHORIZED VEHICLES

5 Sec. 2308.251 [~~684.011~~]. PROHIBITION AGAINST UNATTENDED
6 VEHICLES IN CERTAIN AREAS. (a) The owner or operator of a vehicle
7 may not leave unattended on a parking facility a vehicle that:

8 (1) is in or obstructs a vehicular traffic aisle,
9 entry, or exit of the parking facility;

10 (2) prevents a vehicle from exiting a parking space in
11 the facility;

12 (3) is in or obstructs a fire lane marked according to
13 Subsection (c); or

14 (4) does not display the special license plates issued
15 under Section 504.201, Transportation Code, or the disabled parking
16 placard issued under Chapter 681, Transportation Code, for a
17 vehicle transporting a disabled person and is in a parking space
18 that is designated for the exclusive use of a vehicle transporting a
19 disabled person.

20 (b) Subsection (a) does not apply to an emergency vehicle
21 that is owned by, or the operation of which is authorized by, a
22 governmental entity.

23 (c) If a government regulation governing the marking of a
24 fire lane applies to a parking facility, a fire lane in the facility
25 must be marked as provided by the regulation. If a government
26 regulation on the marking of a fire lane does not apply to the
27 parking facility, all curbs of fire lanes must be painted red and be

1 conspicuously and legibly marked with the warning "FIRE LANE--TOW
2 AWAY ZONE" in white letters at least three inches tall, at intervals
3 not exceeding 50 feet.

4 Sec. 2308.252 [~~684.012~~]. REMOVAL AND STORAGE OF
5 UNAUTHORIZED VEHICLE. (a) A parking facility owner may, without
6 the consent of the owner or operator of an unauthorized vehicle,
7 cause the vehicle and any property on or in the vehicle to be
8 removed and stored at a vehicle storage facility at the vehicle
9 owner's or operator's expense if:

10 (1) signs that comply with Subchapter G [~~E~~]
11 prohibiting unauthorized vehicles are located on the parking
12 facility at the time of towing and for the preceding 24 hours and
13 remain installed at the time of towing;

14 (2) the owner or operator of the vehicle has received
15 actual notice from the parking facility owner that the vehicle will
16 be towed at the vehicle owner's or operator's expense if it is in or
17 not removed from an unauthorized space;

18 (3) the parking facility owner gives notice to the
19 owner or operator of the vehicle under Subsection (b); or

20 (4) the vehicle is:

21 (A) left in violation of Section 2308.251
22 [~~684.011~~] or 2308.253 [~~684.0125~~]; or

23 (B) in or obstructing a portion of a paved
24 driveway or abutting public roadway used for entering or exiting
25 the facility and the removal is approved by a peace officer.

26 (b) A parking facility owner is considered to have given
27 notice under Subsection (a)(3) if:

1 (1) a conspicuous notice has been attached to the
2 vehicle's front windshield or, if the vehicle has no front
3 windshield, to a conspicuous part of the vehicle stating:

4 (A) that the vehicle is in a parking space in
5 which the vehicle is not authorized to be parked;

6 (B) a description of all other unauthorized areas
7 in the parking facility;

8 (C) that the vehicle will be towed at the expense
9 of the owner or operator of the vehicle if it remains in an
10 unauthorized area of the parking facility; and

11 (D) a telephone number that is answered 24 hours
12 a day to enable the owner or operator of the vehicle to locate the
13 vehicle; and

14 (2) a notice is mailed after the notice is attached to
15 the vehicle as provided by Subdivision (1) to the owner of the
16 vehicle by certified mail, return receipt requested, to the last
17 address shown for the owner according to the vehicle registration
18 records of the Texas Department of Transportation, or if the
19 vehicle is registered in another state, the appropriate agency of
20 that state.

21 (c) The notice under Subsection (b)(2) must:

22 (1) state that the vehicle is in a space in which the
23 vehicle is not authorized to park;

24 (2) describe all other unauthorized areas in the
25 parking facility;

26 (3) contain a warning that the unauthorized vehicle
27 will be towed at the expense of the owner or operator of the vehicle

1 if it is not removed from the parking facility before the 15th day
2 after the postmark date of the notice; and

3 (4) state a telephone number that is answered 24 hours
4 a day to enable the owner or operator to locate the vehicle.

5 (d) The mailing of a notice under Subsection (b)(2) is not
6 required if after the notice is attached under Subsection (b)(1)
7 the owner or operator of the vehicle leaves the vehicle in another
8 location where parking is unauthorized for the vehicle according to
9 the notice.

10 Sec. 2308.253 [~~684.0125~~]. UNATTENDED VEHICLES ON PARKING
11 FACILITY OF APARTMENT COMPLEX; REMOVAL AND STORAGE OF VEHICLES.

12 (a) This section applies only to a parking facility serving or
13 adjacent to an apartment complex consisting of one or more
14 residential apartment units and any adjacent real property serving
15 the apartment complex.

16 (b) The owner or operator of a vehicle may not leave
17 unattended on a parking facility a vehicle that:

18 (1) obstructs a gate that is designed or intended for
19 the use of pedestrians or vehicles;

20 (2) obstructs pedestrian or vehicular access to an
21 area that is used for the placement of a garbage or refuse
22 receptacle used in common by residents of the apartment complex;

23 (3) is in or obstructs a restricted parking area or
24 parking space designated under Subchapter G [~~C~~], including a space
25 designated for the use of employees or maintenance personnel of the
26 parking facility or apartment complex;

27 (4) is in a tow away zone, other than a fire lane

1 covered by Section 2308.251(c) [~~684.011(e)~~], that is brightly
2 painted and is conspicuously and legibly marked with the warning
3 "TOW AWAY ZONE" in contrasting letters at least three inches tall;

4 (5) is a semitrailer, trailer, or truck-tractor, as
5 defined by Chapter 502, Transportation Code, unless the owner or
6 operator of the vehicle is permitted under the terms of a rental or
7 lease agreement with the apartment complex to leave the unattended
8 vehicle on the parking facility; or

9 (6) is leaking a fluid that presents a hazard or threat
10 to persons or property.

11 (c) A parking facility owner may not have an emergency
12 vehicle described by Section 2308.251(b) [~~684.011(b)~~] removed from
13 the parking facility.

14 (d) Except as provided by a contract described by Subsection
15 (e), a parking facility owner may not have a vehicle removed from
16 the parking facility merely because the vehicle does not display:

17 (1) an unexpired license plate or registration
18 insignia issued for the vehicle under Chapter 502, Transportation
19 Code, or the vehicle registration law of another state or country;
20 or

21 (2) a valid vehicle inspection certificate issued
22 under Chapter 548, Transportation Code, or the vehicle inspection
23 law of another state or country.

24 (e) A contract provision providing for the removal from a
25 parking facility of a vehicle that does not display an unexpired
26 license plate or registration insignia or a valid inspection
27 certificate is valid only if the provision requires the owner or

operator of the vehicle to be given at least 10 days' written notice that the vehicle will be towed from the facility at the vehicle owner's or operator's expense if it is not removed from the parking facility. The notice must be:

(1) delivered in person to the owner or operator of the vehicle; or

(2) sent by certified mail, return receipt requested, to that owner or operator.

(f) This section may not be construed:

(1) to authorize the owner or operator of a vehicle to leave an unattended vehicle on property that is not designed or intended for the parking of vehicles; or

(2) to limit or restrict the enforcement of Chapter 683, Transportation Code, the abandoned motor vehicle law.

(g) A provision of an apartment lease or rental agreement entered into or renewed on or after January 1, 2004, that is in conflict or inconsistent with this section is void and may not be enforced.

Sec. 2308.254 [~~684.013~~]. LIMITATION ON PARKING FACILITY OWNER'S AUTHORITY TO REMOVE UNAUTHORIZED VEHICLE. A parking facility owner may not have an unauthorized vehicle removed from the facility except:

(1) as provided by this chapter or a municipal ordinance that complies with Section 2308.208 [~~684.101~~]; or

(2) under the direction of a peace officer or the owner or operator of the vehicle.

Sec. 2308.255 [~~684.014~~]. TOWING COMPANY'S AUTHORITY TO

1 REMOVE AND STORE UNAUTHORIZED VEHICLE. (a) A towing company that
2 is insured as provided by Subsection (c) may, without the consent of
3 an owner or operator of an unauthorized vehicle, remove and store
4 the vehicle at a vehicle storage facility at the expense of the
5 owner or operator of the vehicle if:

6 (1) the towing company has received written
7 verification from the parking facility owner that:

8 (A) the parking facility owner has installed the
9 signs required by Section 2308.252(a)(1) [~~684.012(a)(1)~~]; or

10 (B) the owner or operator received notice under
11 Section 2308.252(a)(2) [~~684.012(a)(2)~~] or the parking facility
12 owner gave notice complying with Section 2308.252(a)(3)
13 [~~684.012(a)(3)~~]; or

14 (2) the vehicle is:

15 (A) left in violation of Section 2308.251
16 [~~684.011~~]; or

17 (B) in or obstructing a portion of a paved
18 driveway or abutting public roadway used for entering or exiting
19 the facility and the removal is approved by a peace officer.

20 (b) A towing company may not remove an unauthorized vehicle
21 except under:

22 (1) this chapter;

23 (2) a municipal ordinance that complies with Section
24 2308.208 [~~684.101~~]; or

25 (3) the direction of a peace officer or the owner or
26 operator of the vehicle.

27 (c) Only a towing company that is insured against liability

1 for property damage incurred in towing a vehicle may remove and
2 store an unauthorized vehicle under this section.

3 (d) A towing company may remove and store a vehicle under
4 Subsection (a) only if the parking facility owner:

5 (1) requests that the towing company remove and store
6 the specific vehicle; or

7 (2) has a standing written agreement with the towing
8 company to enforce parking restrictions in the parking facility
9 from which the vehicle will be removed.

10 Sec. 2308.256 [~~684.015~~]. VEHICLE STORAGE FACILITY'S DUTY
11 TO REPORT AFTER ACCEPTING UNAUTHORIZED VEHICLE. (a) A vehicle
12 storage facility accepting a vehicle that is towed under this
13 chapter shall within two hours after receiving the vehicle report
14 to the police department of the municipality in which the parking
15 facility is located, or, if the parking facility is not located in a
16 municipality having a police department, to the sheriff of the
17 county in which the parking facility is located:

18 (1) a general description of the vehicle;

19 (2) the state and number of the vehicle's license
20 plate, if any;

21 (3) the vehicle identification number of the vehicle,
22 if it can be ascertained;

23 (4) the location from which the vehicle was towed; and

24 (5) the name and location of the vehicle storage
25 facility where the vehicle is being stored.

26 (b) The report required by this section must be made by
27 telephone or delivered personally or by facsimile.

SECTION 2.04. 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, and amended to read as follows:

SUBCHAPTER G [~~E~~]. SIGNS PROHIBITING UNAUTHORIZED VEHICLES AND
DESIGNATING RESTRICTED AREAS

Sec. 2308.301 [~~684.031~~]. GENERAL REQUIREMENTS FOR SIGN PROHIBITING UNAUTHORIZED VEHICLES. (a) Except as provided by Subsection (a)(2)(B) and Section 2308.304 [~~684.034~~] or 2308.305 [~~684.035~~] an unauthorized vehicle may not be towed under Section 2308.252(a)(1) [~~684.012(a)(1)~~] unless a sign prohibiting unauthorized vehicles on a parking facility is:

(1) facing and conspicuously visible to the driver of a vehicle that enters the facility;

(2) located:

(A) on the right or left side of each driveway or curb-cut through which a vehicle can enter the facility, including an entry from an alley abutting the facility; or

(B) at intervals along the entrance so that no entrance is farther than 25 feet from a sign if:

(i) curbs, access barriers, landscaping, or driveways do not establish definite vehicle entrances onto a parking facility from a public roadway other than an alley; and

(ii) the width of an entrance exceeds 35 feet;

(3) permanently mounted on a pole, post, permanent

1 wall, or permanent barrier;

2 (4) installed on the parking facility; and

3 (5) installed so that the bottom edge of the sign is no
4 lower than five feet and no higher than eight feet above ground
5 level.

6 (b) Except as provided by Section 2308.305 [~~684.035~~], an
7 unauthorized vehicle may be towed under Section 2308.252(a)(1)
8 [~~684.012(a)(1)~~] only if each sign prohibiting unauthorized
9 vehicles:

10 (1) is made of weather-resistant material;

11 (2) is at least 18 inches wide and 24 inches tall;

12 (3) contains the international symbol for towing
13 vehicles;

14 (4) contains a statement describing who may park in
15 the parking facility and prohibiting all others;

16 (5) bears the words "Unauthorized Vehicles Will Be
17 Towed at Owner's or Operator's Expense";

18 (6) contains a statement of the days and hours of
19 towing enforcement; and

20 (7) contains a number, including the area code, of a
21 telephone that is answered 24 hours a day to enable an owner or
22 operator of a vehicle to locate the vehicle.

23 Sec. 2308.302 [~~684.032~~]. COLOR, LAYOUT, AND LETTERING
24 HEIGHT REQUIREMENTS. (a) Except as provided by Section 2308.305
25 [~~684.035~~], each sign required by this chapter must comply with the
26 color, layout, and lettering height requirements of this section.

27 (b) A bright red international towing symbol, which is a

1 solid silhouette of a tow truck towing a vehicle on a generally
2 rectangular white background, at least four inches in height, must
3 be on the uppermost portion of a sign or on a separate sign placed
4 immediately above the sign.

5 (c) The portion of the sign immediately below the
6 international towing symbol must contain the words "Towing
7 Enforced" or the information provided by Section 2308.301(b)(4)
8 [~~684.031(b)(4)~~] in lettering at least two inches in height. The
9 lettering on this portion of the sign must consist of white letters
10 on a bright red background.

11 (d) Except as provided by Subsection (e), the next lower
12 portion of the sign must contain the remaining information required
13 by Section 2308.301(b) [~~684.031(b)~~] displayed in bright red letters
14 at least one inch in height on a white background.

15 (e) The bottommost portion of the sign must contain the
16 telephone number required by Section 2308.301(b) [~~684.031(b)~~], in
17 lettering at least one inch in height and may, if the facility owner
18 chooses or if an applicable municipal ordinance requires, include
19 the name and address of the storage facility to which an
20 unauthorized vehicle will be removed. The lettering on this
21 portion of the sign must consist of white letters on a bright red
22 background.

23 Sec. 2308.303 [~~684.033~~]. TELEPHONE NUMBER FOR LOCATING
24 TOWED VEHICLE REQUIRED. If a parking facility owner posts a sign
25 described by Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~],
26 the owner of a vehicle that is towed from the facility under this
27 chapter must be able to locate the vehicle by calling the telephone

number on the sign.

Sec. 2308.304 [~~684.034~~]. DESIGNATION OF RESTRICTED PARKING SPACES ON OTHERWISE UNRESTRICTED PARKING FACILITY. A parking facility owner may designate one or more spaces as restricted parking spaces on a portion of an otherwise unrestricted parking facility. Instead of installing a sign at each entrance to the parking facility as provided by Section 2308.301(a)(2) [~~684.031(a)(2)~~], an owner may place a sign that prohibits unauthorized vehicles from parking in designated spaces and that otherwise complies with Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~]:

(1) at the right or left side of each entrance to a designated area or group of parking spaces located on the restricted portion of the parking facility; or

(2) at the end of a restricted parking space so that the sign, the top of which must not be higher than seven feet above the ground, is in front of a vehicle that is parked in the space and the rear of which is at the entrance of the space.

Sec. 2308.305 [~~684.035~~]. INDIVIDUAL PARKING RESTRICTIONS IN RESTRICTED AREA. (a) A parking facility owner who complies with Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~] may impose further specific parking restrictions in an area to which the signs apply for individual spaces by installing or painting a weather-resistant sign or notice on a curb, pole, post, permanent wall, or permanent barrier so that the sign is in front of a vehicle that is parked in the space and the rear of which is at the entrance of the space.

(b) The top of the sign or notice may not be higher than seven feet above the ground.

(c) The sign or notice must include an indication that the space is reserved for a particular unit number, person, or type of person.

(d) The letters on the sign or notice must be at least two inches in height and must contrast to the color of the curb, wall, or barrier so they can be read during the day and at night. The letters are not required to be illuminated or made of reflective material.

SECTION 2.05. 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, and amended to read as follows:

SUBCHAPTER H [~~D~~]. REGULATION OF PARKING ON CERTAIN PUBLIC ROADWAY AREAS

Sec. 2308.351 [~~684.051~~]. REMOVAL OF UNAUTHORIZED VEHICLE FROM LEASED RIGHT-OF-WAY. Unless prohibited by the lease, a parking facility owner or towing company may remove an unauthorized vehicle parked in a leased area described by Section 2308.002(7)(B)(i) [~~684.001(1)(B)(i)~~] if the owner or towing company gives notice under Section 2308.252(a)(1), (2), or (3) [~~684.012(a)(1), (2), or (3)~~] and otherwise complies with this chapter.

Sec. 2308.352 [~~684.052~~]. REMOVAL OF UNAUTHORIZED VEHICLE FROM AREA BETWEEN PARKING FACILITY AND PUBLIC ROADWAY. Unless

1 prohibited by a municipal ordinance, a parking facility owner or
2 towing company may remove an unauthorized vehicle any part of which
3 is in an area described by Section 2308.002(7)(B)(ii)
4 [~~684.001(1)(B)(ii)~~] if notice provided by Section 2308.252(a)(2)
5 or (3) [~~684.012(a)(2) or (3)~~] is given and the owner or towing
6 company has otherwise complied with this chapter.

7 Sec. 2308.353 [~~684.053~~]. REMOVAL UNDER GOVERNMENTAL
8 ENTITY'S AUTHORITY OF UNAUTHORIZED VEHICLE PARKED IN RIGHT-OF-WAY.

9 (a) A governmental entity that has jurisdiction over a public
10 roadway and that has posted one or more signs in the right-of-way
11 stating that parking is prohibited in the right-of-way may:

12 (1) remove or contract with a towing company to remove
13 an unauthorized vehicle parked in the right-of-way of the public
14 roadway; or

15 (2) grant written permission to an abutting parking
16 facility owner to:

17 (A) post one or more "No parking in R.O.W." signs
18 along a common property line of the facility and the roadway; and

19 (B) remove vehicles from the right-of-way of the
20 public roadway under this chapter.

21 (b) A sign under Subsection (a)(2) must:

22 (1) state that a vehicle parked in the right-of-way
23 may be towed at the expense of the owner or operator of the vehicle;

24 (2) be placed facing the public roadway:

25 (A) on the parking facility owner's property not
26 more than two feet from the common boundary line; and

27 (B) at intervals so that no point in the boundary

1 line is less than 25 feet from a sign posted under this subsection;
2 and

3 (3) in all other respects comply with Subchapter G
4 [C].

5 (c) After signs have been posted under Subsection (b), the
6 parking facility owner or a towing company may remove an
7 unauthorized vehicle from the right-of-way subject to the
8 governmental entity's written permission given under Subsection
9 (a)(2).

10 Sec. 2308.354 [~~684.054~~]. AUTHORITY FOR REMOVAL OF VEHICLE
11 FROM PUBLIC ROADWAY. (a) Under an ordinance of a municipality
12 regulating the parking of vehicles in the municipality, to aid in
13 the enforcement of the ordinance, an employee designated by the
14 municipality may be authorized to:

15 (1) immobilize a vehicle parked in the municipality;
16 and

17 (2) remove an immobilized vehicle from a public
18 roadway in the municipality.

19 (b) A parking facility owner or towing company may not
20 remove a vehicle from a public roadway except under:

21 (1) this chapter or a municipal ordinance that
22 complies with Section 2308.208 [~~684.101~~]; or

23 (2) the direction of a peace officer or the owner or
24 operator of the vehicle.

25 SECTION 2.06. Subchapter E, Chapter 684, Transportation
26 Code, is transferred to Chapter 2308, Occupations Code,
27 redesignated as Subchapter I, Chapter 2308, Occupations Code, and

renumbered as Sections 2308.401 through 2308.407, Occupations Code, to read as follows:

SUBCHAPTER I [~~E~~]. REGULATION OF TOWING COMPANIES AND PARKING FACILITY OWNERS

Sec. 2308.401 [~~684.081~~]. PARKING FACILITY OWNER PROHIBITED FROM RECEIVING FINANCIAL GAIN FROM TOWING COMPANY. (a) A parking facility owner may not directly or indirectly accept anything of value from a towing company in connection with the removal of a vehicle from a parking facility.

(b) A parking facility owner may not have a direct or indirect monetary interest in a towing company that for compensation removes unauthorized vehicles from a parking facility in which the parking facility owner has an interest.

Sec. 2308.402 [~~684.082~~]. TOWING COMPANY PROHIBITED FROM FINANCIAL INVOLVEMENT WITH PARKING FACILITY OWNER. (a) A towing company may not directly or indirectly give anything of value to a parking facility owner in connection with the removal of a vehicle from a parking facility.

(b) A towing company may not have a direct or indirect monetary interest in a parking facility from which the towing company for compensation removes unauthorized vehicles.

Sec. 2308.403 [~~684.083~~]. LIMITATION ON LIABILITY OF PARKING FACILITY OWNER FOR REMOVAL OR STORAGE OF UNAUTHORIZED VEHICLE. A parking facility owner who causes the removal of an unauthorized vehicle is not liable for damages arising from the removal or storage of the vehicle if the vehicle:

(1) was removed in compliance with this chapter; and

(2) is:

(A) removed by a towing company insured against liability for property damage incurred in towing a vehicle; and

(B) stored by a vehicle storage facility insured against liability for property damage incurred in storing a vehicle.

Sec. 2308.404 [~~684.084~~]. CIVIL LIABILITY OF TOWING COMPANY OR PARKING FACILITY OWNER FOR VIOLATION OF CHAPTER. (a) A towing company or parking facility owner who violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for:

(1) damages arising from the removal or storage of the vehicle; and

(2) towing or storage fees assessed in connection with the vehicle's removal or storage.

(b) A vehicle's owner or operator is not required to prove negligence of a parking facility owner or towing company to recover under Subsection (a).

(c) A towing company or parking facility owner who intentionally, knowingly, or recklessly violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for \$300 plus three times the amount of fees assessed in the vehicle's removal, towing, or storage.

(d) In a suit brought under this chapter, the prevailing party is entitled to recover reasonable attorney's fees.

Sec. 2308.405 [~~684.085~~]. VIOLATION OF CHAPTER; FINE. A violation of this chapter is a misdemeanor punishable by a fine of

not less than \$500 or more than \$1,500.

Sec. 2308.406 [~~684.086~~]. VIOLATION OF CHAPTER; INJUNCTION.
A violation of this chapter may be enjoined under Subchapter E,
Chapter 17, Business & Commerce Code.

Sec. 2308.407 [~~684.087~~]. MINOR SIGN OR LETTERING HEIGHT
VARIATIONS. A minor variation of a required or minimum height of a
sign or lettering is not a violation of this chapter.

SECTION 2.07. Sections 685.002 through 685.010,
Transportation Code, are transferred to Chapter 2308, Occupations
Code, redesignated as Subchapter J, Chapter 2308, Occupations Code,
renumbered as Sections 2308.451 through 2308.459, Occupations
Code, and amended to read as follows:

SUBCHAPTER J. RIGHTS OF OWNERS AND OPERATORS OF STORED VEHICLES

Sec. 2308.451 [~~685.002~~]. PAYMENT OF COST OF REMOVAL AND
STORAGE OF VEHICLE. (a) If in a hearing held under this chapter
the court finds that a person or law enforcement agency authorized,
with probable cause, the removal and storage in a vehicle storage
facility of a vehicle, the person who requested the hearing shall
pay the costs of the removal and storage.

(b) If in a hearing held under this chapter the court does
not find that a person or law enforcement agency authorized, with
probable cause, the removal and storage in a vehicle storage
facility of a vehicle, the person or law enforcement agency that
authorized the removal shall:

- (1) pay the costs of the removal and storage; or
- (2) reimburse the owner or operator for the cost of the
removal and storage paid by the owner or operator.

1 Sec. 2308.452 [~~685.003~~]. RIGHT OF OWNER OR OPERATOR OF
2 VEHICLE TO HEARING. The owner or operator of a vehicle that has
3 been removed and placed in a vehicle storage facility without the
4 consent of the owner or operator of the vehicle is entitled to a
5 hearing on whether probable cause existed for the removal and
6 placement.

7 Sec. 2308.453 [~~685.004~~]. JURISDICTION. A hearing under
8 this chapter shall be in the justice court having jurisdiction in
9 the precinct in which the vehicle storage facility is located.

10 Sec. 2308.454 [~~685.005~~]. NOTICE TO VEHICLE OWNER OR
11 OPERATOR. (a) If before a hearing held under this chapter the
12 owner or operator of a vehicle pays the costs of the vehicle's
13 removal or storage, the towing company or vehicle storage facility
14 that received the payment shall at the time of payment give the
15 owner or operator written notice of the person's rights under this
16 chapter.

17 (b) The operator of a vehicle storage facility that sends a
18 notice under Subchapter D, Chapter 2303, [~~Occupations Code~~, 7] shall
19 include with that notice a notice of the person's rights under this
20 chapter.

21 Sec. 2308.455 [~~685.006~~]. CONTENTS OF NOTICE. The notice
22 under Section 2308.454 [~~685.005~~] must include:

23 (1) a statement of:

24 (A) the person's right to submit a request within
25 14 days for a court hearing to determine whether probable cause
26 existed to remove the vehicle;

27 (B) the information that a request for a hearing

1 must contain; and

2 (C) any filing fee for the hearing;

3 (2) the name, address, and telephone number of the
4 towing company that removed the vehicle;

5 (3) the name, address, and telephone number of the
6 vehicle storage facility in which the vehicle was placed;

7 (4) the name, address, and telephone number of the
8 person, property owner, or law enforcement agency that authorized
9 the removal of the vehicle; and

10 (5) the name, address, and telephone number of the
11 justice court having jurisdiction in the precinct in which the
12 vehicle storage facility is located.

13 Sec. 2308.456 [~~685.007~~]. REQUEST FOR HEARING. (a) Except
14 as provided by Subsection (c), a person entitled to a hearing under
15 this chapter must deliver a written request for the hearing to the
16 court before the 14th day after the date the vehicle was removed and
17 placed in the vehicle storage facility, excluding Saturdays,
18 Sundays, and legal holidays.

19 (b) A request for a hearing must contain:

20 (1) the name, address, and telephone number of the
21 owner or operator of the vehicle;

22 (2) the location from which the vehicle was removed;

23 (3) the date when the vehicle was removed;

24 (4) the name, address, and telephone number of the
25 person or law enforcement agency that authorized the removal;

26 (5) the name, address, and telephone number of the
27 vehicle storage facility in which the vehicle was placed;

1 (6) the name, address, and telephone number of the
2 towing company that removed the vehicle;

3 (7) a copy of any receipt or notification that the
4 owner or operator received from the towing company or the vehicle
5 storage facility; and

6 (8) if the vehicle was removed from a parking
7 facility:

8 (A) one or more photographs that show the
9 location and text of any sign posted at the facility restricting
10 parking of vehicles; or

11 (B) a statement that no sign restricting parking
12 was posted at the parking facility.

13 (c) If notice was not given under Section 2308.454
14 [~~685.005~~], the 14-day deadline for requesting a hearing under
15 Subsection (a) does not apply, and the owner or operator of the
16 vehicle may deliver a written request for a hearing at any time.

17 (d) A person who fails to deliver a request in accordance
18 with Subsection (a) waives the right to a hearing.

19 Sec. 2308.457 [~~685.008~~]. FILING FEE AUTHORIZED. The court
20 may charge a filing fee of \$20 for a hearing under this chapter.

21 Sec. 2308.458 [~~685.009~~]. HEARING. (a) A hearing under
22 this chapter shall be held before the 10th working day after the
23 date the court receives the request for the hearing.

24 (b) The court shall notify the person who requested the
25 hearing and the person or law enforcement agency that authorized
26 the removal of the vehicle of the date, time, and place of the
27 hearing by registered or certified mail. The notice of the hearing

1 to the person or law enforcement agency that authorized the removal
2 of the vehicle shall include a copy of the request for hearing.

3 (b-1) At a hearing under this section:

4 (1) the burden of proof is on the person who requested
5 the hearing; and

6 (2) hearsay evidence is admissible if it is considered
7 otherwise reliable by the justice of the peace.

8 (c) The issues in a hearing under this chapter are:

9 (1) whether probable cause existed for the removal and
10 placement of the vehicle;

11 (2) whether a towing charge imposed or collected in
12 connection with the removal or placement of the vehicle was greater
13 than the amount authorized by the political subdivision under
14 Section 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~];

15 (3) whether a towing charge imposed or collected in
16 connection with the removal or placement of the vehicle was greater
17 than the amount authorized under Section 2308.203 [~~643.204~~] or
18 2308.204 [~~643.205~~]; or

19 (4) whether a towing charge imposed or collected in
20 connection with the removal or placement of the vehicle was greater
21 than the amount filed with the department under Section 2308.206
22 [~~643.207~~].

23 (d) The court shall make written findings of fact and a
24 conclusion of law.

25 (e) The court may award:

26 (1) court costs to the prevailing party;

27 (2) the reasonable cost of photographs submitted under

1 Section 2308.456(b)(8) [~~685.007(b)(8)~~] to a vehicle owner or
2 operator who is the prevailing party; and

3 (3) an amount equal to the amount that the towing
4 charge exceeded fees regulated by a political subdivision or
5 authorized by this code or by Chapter 2303[~~, Occupations Code~~].

6 Sec. 2308.459 [~~685.010~~]. APPEAL. An appeal from a hearing
7 under this chapter is governed by the rules of procedure applicable
8 to civil cases in justice court, except that no appeal bond may be
9 required by the court.

10 SECTION 2.08. Chapter 2308, Occupations Code, is amended by
11 adding Subchapter K to read as follows:

12 SUBCHAPTER K. ENFORCEMENT

13 Sec. 2308.501. ADMINISTRATIVE PENALTY. (a) The
14 commission may impose an administrative penalty on a person under
15 Subchapter F, Chapter 51, regardless of whether the person holds a
16 registration, permit, or license under this chapter, if the person
17 violates:

18 (1) this chapter or a rule adopted under this chapter;
19 or

20 (2) a rule or order of the executive director of the
21 department or commission.

22 (b) An administrative penalty may not be imposed unless the
23 person charged with a violation is provided the opportunity for a
24 hearing.

25 Sec. 2308.502. CEASE AND DESIST ORDER; INJUNCTION; CIVIL
26 PENALTY. (a) The executive director of the department may issue a
27 cease and desist order as necessary to enforce this chapter if the

1 executive director determines that the action is necessary to
2 prevent a violation of this chapter and to protect public health and
3 safety.

4 (b) The attorney general or executive director may
5 institute an action for an injunction or a civil penalty under this
6 chapter as provided by Section 51.352.

7 Sec. 2308.503. CRIMINAL PENALTY; LICENSING. (a) A person
8 commits an offense if the person:

9 (1) violates the permitting or licensing requirements
10 of this chapter;

11 (2) performs towing without a license to perform
12 towing in this state;

13 (3) employs an individual who does not hold the
14 appropriate license required by this chapter; or

15 (4) falsifies a certification or training.

16 (b) An offense under this section is a Class C misdemeanor.

17 SECTION 2.09. Subsection (d), Section 643.253,
18 Transportation Code, is transferred to Subchapter K, Chapter 2308,
19 Occupations Code, renumbered as Section 2308.504, Occupations
20 Code, and amended to read as follows:

21 Sec. 2308.504. CRIMINAL PENALTY; TOWING. (a) [~~d~~] A
22 person commits an offense if the person:

23 (1) violates an ordinance, resolution, order, rule, or
24 regulation of a political subdivision adopted under Section
25 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~], for which the political
26 subdivision does not prescribe the penalty;

27 (2) charges or collects a fee in a political

subdivision that regulates the operation of tow trucks under Section 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~] that is not authorized or is greater than the authorized amount of the fee;

(3) charges or collects a fee greater than the amount authorized under Section 2308.204 [~~643.205~~];

(4) charges or collects a fee in excess of the amount filed with the department under Section 2308.206 [~~643.207~~];

(5) violates Section 2308.205 [~~643.206~~]; or

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

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$200 or more than \$1,000 per violation.

ARTICLE 3. CONFORMING AMENDMENTS

SECTION 3.01. Subsection (e), Article 18.23, Code of Criminal Procedure, is amended to read as follows:

(e) Subchapter J, Chapter 2308, Occupations Code [~~Chapter 685, Transportation Code~~], does not apply to a motor vehicle directed by a law enforcement agency to be towed and stored for an evidentiary or examination purpose.

SECTION 3.02. Subsection (a), Section 101.141, Government Code, is amended to read as follows:

(a) A clerk of a justice court shall collect fees and costs as follows:

(1) additional court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the commissioners court of a county with a population

1 of at least 2.5 million (Sec. 152.005, Civil Practice and Remedies
2 Code) . . . not to exceed \$3;

3 (2) additional filing fees:

4 (A) to fund Dallas County civil court facilities
5 (Sec. 51.705, Government Code) . . . not more than \$15; and

6 (B) for filing any civil action or proceeding
7 requiring a filing fee, including an appeal, and on the filing of
8 any counterclaim, cross-action, intervention, interpleader, or
9 third-party action requiring a filing fee, to fund civil legal
10 services for the indigent (Sec. 133.153, Local Government Code)
11 . . . \$2;

12 (3) for filing a suit in Comal County (Sec. 152.0522,
13 Human Resources Code) . . . \$1.50;

14 (4) fee for hearing on probable cause for removal of a
15 vehicle and placement in a storage facility if assessed by the court
16 (Sec. 2308.457, Occupations Code [~~685.008, Transportation Code~~])
17 . . . \$20;

18 (5) court fees and costs, if ordered by the court, for
19 a suit filed by an inmate in which an affidavit or unsworn
20 declaration of inability to pay costs is filed by the inmate (Sec.
21 14.006, Civil Practice and Remedies Code) . . . the lesser of:

22 (A) 20 percent of the preceding six months'
23 deposits to the inmate's trust account administered by the Texas
24 Department of Criminal Justice under Section 501.014, Government
25 Code; or

26 (B) the total amount of court fees and costs;

27 (6) monthly payment for remaining court fees and costs

1 after the initial payment for a suit in which an affidavit or
2 unsworn declaration of inability to pay costs is filed by the inmate
3 (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser
4 of:

5 (A) 10 percent of that month's deposit to the
6 inmate's trust account administered by the Texas Department of
7 Criminal Justice under Section 501.014, Government Code; or

8 (B) the total amount of court fees and costs that
9 remain unpaid;

10 (7) the following costs not otherwise charged to the
11 inmate under Section 14.006, Civil Practice and Remedies Code, if
12 the inmate has previously filed an action dismissed as malicious or
13 frivolous (Sec. 14.007, Civil Practice and Remedies Code):

14 (A) expenses of service of process;

15 (B) postage; and

16 (C) transportation, housing, or medical care
17 incurred in connection with the appearance of the inmate in the
18 court for any proceeding; and

19 (8) the cost of a special program that a court may
20 order a child to attend after a finding that the child committed an
21 offense, if ordered by the court (Art. 45.057, Code of Criminal
22 Procedure) . . . costs of the program not to exceed \$100.

23 SECTION 3.03. Section 101.161, Government Code, is amended
24 to read as follows:

25 Sec. 101.161. MUNICIPAL COURT FEES AND COSTS. The clerk of
26 a municipal court shall collect:

27 (1) a fee for a hearing on probable cause for removal

1 of a vehicle and placement in a storage facility if assessed by the
2 court (Sec. 2308.457, Occupations Code [~~685.008, Transportation~~
3 ~~Code~~]) . . . \$20; and

4 (2) the cost of a special program that a court may
5 order a child to attend after finding that the child committed an
6 offense, if ordered by the court (Art. 45.057, Code of Criminal
7 Procedure) . . . costs of the program not to exceed \$100.

8 SECTION 3.04. Subsection (f), Section 2303.155,
9 Occupations Code, is amended to read as follows:

10 (f) The operator of a vehicle storage facility or
11 governmental vehicle storage facility may not charge an additional
12 fee related to the storage of a vehicle other than a fee authorized
13 by this section or a towing fee authorized by Chapter 2308 [~~Chapter~~
14 ~~643, Transportation Code~~].

15 SECTION 3.05. Subsection (c), Section 504.508,
16 Transportation Code, is amended to read as follows:

17 (c) Proof of eligibility for license plates under this
18 section must include a copy of the permit [~~registration~~]
19 certificate issued by the Texas Department of Licensing and
20 Regulation [~~department~~] for the tow truck.

21 SECTION 3.06. Section 643.002, Transportation Code, is
22 amended to read as follows:

23 Sec. 643.002. EXEMPTIONS. This chapter does not apply to:

24 (1) a motor vehicle registered under the single state
25 registration system established under 49 U.S.C. Section 14504(c)
26 when operating exclusively in interstate or international
27 commerce;

1 (2) a motor vehicle registered as a cotton vehicle
2 under Section 502.277;

3 (3) a motor vehicle the department by rule exempts
4 because the vehicle is subject to comparable registration and a
5 comparable safety program administered by another governmental
6 entity;

7 (4) a motor vehicle used to transport passengers
8 operated by an entity whose primary function is not the
9 transportation of passengers, such as a vehicle operated by a
10 hotel, day-care center, public or private school, nursing home, or
11 similar organization;

12 (5) a vehicle operating under a private carrier permit
13 issued under Chapter 42, Alcoholic Beverage Code; ~~[or]~~

14 (6) a vehicle operated by a governmental entity; or

15 (7) a tow truck, as defined by Section 2308.002,
16 Occupations Code.

17 SECTION 3.07. Subsection (a), Section 643.051,
18 Transportation Code, is amended to read as follows:

19 (a) A motor carrier may not operate a commercial motor
20 vehicle, as defined by Section 548.001, ~~[or a tow truck]~~ on a road
21 or highway of this state unless the carrier registers with the
22 department under this subchapter.

23 SECTION 3.08. Section 643.053, Transportation Code, is
24 amended to read as follows:

25 Sec. 643.053. FILING OF APPLICATION. An application under
26 Section 643.052 must be filed with the department and accompanied
27 by:

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

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

6 (3) any insurance filing fee required under Section
7 643.103(c).

8 SECTION 3.09. Subsections (a) and (d), Section 643.057,
9 Transportation Code, are amended to read as follows:

10 (a) A motor carrier may not operate an additional vehicle
11 requiring registration unless the carrier pays a registration fee
12 of \$10 for each additional vehicle [~~other than a tow truck or \$25~~
13 ~~for each tow truck~~] and shows the department evidence of insurance
14 or financial responsibility for the vehicle in an amount at least
15 equal to the amount set by the department under Section 643.101.

16 (d) The department may not collect more than \$10 in
17 equipment registration fees for a vehicle [~~other than a tow truck~~]
18 registered under both this subchapter and Chapter 645 [~~or more than~~
19 ~~\$25 if the vehicle is a tow truck~~].

20 SECTION 3.10. Subsection (c), Section 643.058,
21 Transportation Code, is amended to read as follows:

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

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

26 (2) paying a \$10 fee for each vehicle requiring
27 registration [~~other than a tow truck or a fee of \$25 for each tow~~

1 ~~truck the carrier operates~~]; and

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

5 SECTION 3.11. Subsection (b), Section 643.061,
6 Transportation Code, is amended to read as follows:

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

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

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

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

17 SECTION 3.12. Subsection (e), Section 643.253,
18 Transportation Code, is amended to read as follows:

19 (e) An offense under Subsection (b) ~~[or (d)]~~ is a
20 misdemeanor punishable by a fine of not less than \$200 or more than
21 \$1,000 per violation.

22 SECTION 3.13. Subdivision (1), Section 1, Chapter 528, Acts
23 of the 76th Legislature, Regular Session, 1999 (Article 178d-1,
24 Vernon's Texas Civil Statutes), is amended to read as follows:

25 (1) "Parking facility," "parking facility owner," and
26 "vehicle" have the meanings assigned by Section 2308.002,
27 Occupations Code ~~[684.001, Transportation Code]~~.

ARTICLE 4. TRANSITION AND EFFECTIVE DATE

SECTION 4.01. The following provisions of the Transportation Code are repealed:

- (1) Subdivision (7), Section 643.001;
- (2) Subsection (d), Section 643.101;
- (3) Section 643.202;
- (4) Section 684.001;
- (5) Section 685.001;
- (6) the heading to Subchapter E, Chapter 643;
- (7) the heading to Chapter 684;
- (8) the headings to Subchapters A, B, and F, Chapter 684; and
- (9) the heading to Chapter 685.

SECTION 4.02. As soon as practicable after the effective date of this Act, the presiding officer of the Texas Commission of Licensing and Regulation shall make the initial appointments to the Towing and Storage Advisory Board. The presiding officer shall appoint two members to terms expiring February 1, 2009, two members to terms expiring February 1, 2011, and three members to terms expiring February 1, 2013.

SECTION 4.03. (a) All rules of the Texas Transportation Commission and the Texas Department of Transportation relating to the administration of Chapter 2303, Occupations Code, are continued in effect as rules of the Texas Commission of Licensing and Regulation or the executive director of the Texas Department of Licensing and Regulation until superseded by a rule of the Texas Commission of Licensing and Regulation or the executive director of

1 the Texas Department of Licensing and Regulation. A license issued
 2 under Chapter 2303, Occupations Code, by the Texas Department of
 3 Transportation is continued in effect as provided by the law in
 4 effect immediately before the effective date of this Act. A
 5 complaint, investigation, contested case, or other proceeding
 6 pending on the effective date of this Act is continued without
 7 change in status after the effective date of this Act. An
 8 inspection or other activity under Chapter 2303, Occupations Code,
 9 that is conducted by the Texas Transportation Commission or the
 10 Texas Department of Transportation is considered to be an
 11 inspection or activity conducted by the Texas Commission of
 12 Licensing and Regulation or the Texas Department of Licensing and
 13 Regulation.

14 (b) A reference in another law or an administrative rule to
 15 the powers and duties under Chapter 2303, Occupations Code, of the
 16 Texas Transportation Commission or the Texas Department of
 17 Transportation means the Texas Commission of Licensing and
 18 Regulation or the Texas Department of Licensing and Regulation.

19 SECTION 4.04. Not later than March 1, 2008, the Texas
 20 Commission of Licensing and Regulation shall adopt rules relating
 21 to an original application for a permit or license under Chapter
 22 2308, Occupations Code, as added by this Act.

23 SECTION 4.05. The Texas Department of Licensing and
 24 Regulation shall issue an incident management towing permit,
 25 private property towing permit, consent towing permit, incident
 26 management towing operator's license, private property towing
 27 operator's license, or consent towing operator's license to a

1 qualified applicant under this section who:

2 (1) applies for a license under this section not later
3 than June 1, 2008;

4 (2) submits to the department the information required
5 by rules adopted by the executive director of the department under
6 this section; and

7 (3) pays the application fee.

8 SECTION 4.06. (a) Except as provided by Subsections (b)
9 and (c) of this section, this Act takes effect September 1, 2007.

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

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