

By: Carona

S.B. No. 1118

Substitute the following for S.B. No. 1118:

By: Krusee

C.S.S.B. No. 1118

A BILL TO BE ENTITLED

1

AN ACT

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

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

5 ARTICLE 1. LICENSING AND REGULATION OF TOWING AND VEHICLE STORAGE

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

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

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

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

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

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

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

24 (2) relate to the administrative sanctions that may be

1 imposed on a person licensed under this chapter;

2 (3) govern the administration of this chapter.

3 SECTION 1.03. Subchapter B, Chapter 2303, Occupations Code,
4 is amended by adding Sections 2303.055, 2303.056, 2303.057, and
5 2303.058 to read as follows:

6 Sec. 2303.055. EXAMINATION OF CRIMINAL CONVICTION. The
7 department may conduct an examination of any criminal conviction of
8 an applicant, including by obtaining any criminal history record
9 information permitted by law.

10 Sec. 2303.056. PERIODIC AND RISK-BASED INSPECTIONS. (a)
11 The department may enter and inspect at any time during business
12 hours:

13 (1) the place of business of any person regulated
14 under this chapter; or

15 (2) any place in which the department has reasonable
16 cause to believe that a license holder is in violation of this
17 chapter or in violation of a rule or order of the commission or
18 executive director.

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

22 (c) The department shall conduct additional inspections
23 based on a schedule of risk-based inspections using the following
24 criteria:

25 (1) the type and nature of the vehicle storage
26 facility;

27 (2) the inspection history of the vehicle storage

1 facility;

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

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

6 (d) The vehicle storage facility shall pay a fee for each
7 risk-based inspection performed under Subsection (c). The
8 commission by rule shall set the amount of the fee.

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

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

14 SECTION 1.04. The heading to Section 2303.101, Occupations
15 Code, is amended to read as follows:

16 Sec. 2303.101. FACILITY LICENSE REQUIRED.

17 SECTION 1.05. Subchapter C, Chapter 2303, Occupations Code,
18 is amended by adding Section 2303.1015 to read as follows:

19 Sec. 2303.1015. EMPLOYEE LICENSE REQUIRED. (a) A person
20 may not work at a vehicle storage facility unless the person holds a
21 license issued under this chapter.

22 (b) The commission shall adopt rules governing the
23 application for and issuance of a license under this section.

24 SECTION 1.06. Sections 2303.102(a) and (b), Occupations
25 Code, are amended to read as follows:

26 (a) The commission by rule shall determine the types of
27 information to be included in an application for a license under

1 this chapter on a form prescribed by the executive director.

2 (b) The rules adopted [~~by the commission~~] under this section
3 must require an [~~the~~] application for a facility license [~~to be made~~
4 ~~under oath and~~] to list:

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

7 (2) the name and address of the president, secretary,
8 and treasurer of the corporation, if the applicant is a corporation
9 [~~, and~~

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

14 SECTION 1.07. Section 2303.151(c), Occupations Code, is
15 amended to read as follows:

16 (c) It is a defense to an action initiated by the department
17 for a violation of this section that the operator of the facility
18 unsuccessfully attempted in writing or electronically to obtain
19 information from the governmental entity with which the vehicle is
20 registered.

21 SECTION 1.08. Section 2303.155(b), Occupations Code, is
22 amended to read as follows:

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

26 (1) a notification fee set in a reasonable amount for
27 providing notice under this subchapter, including notice under

1 Section 2303.154(c);

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

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

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

7 (3) a daily storage fee of:

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

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

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

17 (5) a fee in an amount set by the commission for the
18 remediation, recovery, or capture of an environmental or biological
19 hazard.

20 SECTION 1.09. Subchapter D, Chapter 2303, Occupations Code,
21 is amended by adding Section 2303.160 to read as follows:

22 Sec. 2303.160. DRUG TESTING OF EMPLOYEES. (a) A license
23 holder shall establish a drug testing policy for employees of the
24 vehicle storage facility operated by the license holder. A license
25 holder that establishes a drug testing policy under this subsection
26 may adopt the model drug testing policy adopted by the commission or
27 may use another drug testing policy that the department determines

1 is at least as stringent as the policy adopted by the commission.

2 (b) The commission by rule shall adopt a model drug testing
3 policy for use by license holders. The model drug testing policy
4 must be designed to ensure the safety of the public through
5 appropriate drug testing and to protect the rights of employees.
6 The model drug testing policy must:

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

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

12 SECTION 1.10. Subchapter G, Chapter 2303, Occupations Code,
13 is amended by adding Sections 2303.304 and 2303.305 to read as
14 follows:

15 Sec. 2303.304. ADMINISTRATIVE PENALTY. (a) The commission
16 may impose an administrative penalty on a person under Subchapter
17 F, Chapter 51, regardless of whether the person holds a
18 registration, permit, or license under this chapter, if the person
19 violates:

20 (1) this chapter or a rule adopted under this chapter;
21 or

22 (2) a rule or order of the executive director or
23 commission.

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

27 Sec. 2303.305. CEASE AND DESIST ORDER; INJUNCTION; CIVIL

1 PENALTY. (a) The executive director may issue a cease and desist
2 order as necessary to enforce this chapter if the executive
3 director determines that the action is necessary to prevent a
4 violation of this chapter and to protect public health and safety.

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

8 SECTION 1.11. Subtitle A, Title 14, Occupations Code, is
9 amended by adding Chapter 2308 to read as follows:

10 CHAPTER 2308. VEHICLE TOWING

11 SUBCHAPTER A. GENERAL PROVISIONS

12 Sec. 2308.001. SHORT TITLE. This chapter may be cited as
13 the Texas Towing Act.

14 Sec. 2308.002. DEFINITIONS. In this chapter:

15 (1) "Advisory board" means the Towing and Storage
16 Advisory Board.

17 (2) "Commission" means the Texas Commission of
18 Licensing and Regulation.

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

25 (4) "Department" means the Texas Department of
26 Licensing and Regulation.

27 (5) "Driver's license" has the meaning assigned by

1 Section 521.001, Transportation Code.

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

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

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

9 (B) a commercial parking lot, a parking garage,
10 and a parking area serving or adjacent to a business, church,
11 school, home, apartment complex, property governed by a property
12 owners' association, or government-owned property leased to a
13 private person, including:

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

17 (ii) the area between the facility's
18 property line abutting a county or municipal public roadway and the
19 center line of the roadway's drainage way or the curb of the
20 roadway, whichever is farther from the facility's property line.

21 (8) "Parking facility owner" means:

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

24 (B) a property owners' association having
25 control under a dedicatory instrument, as that term is defined in
26 Section 202.001, Property Code, over assigned or unassigned parking
27 areas; or

1 (C) a property owner having an exclusive right
2 under a dedicatory instrument, as that term is defined in Section
3 202.001, Property Code, to use a parking space.

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

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

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

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

17 (13) "Unauthorized vehicle" means a vehicle parked,
18 stored, or located on a parking facility without the consent of the
19 parking facility owner.

20 (14) "Vehicle" means a device in, on, or by which a
21 person or property may be transported on a public roadway. The term
22 includes an operable or inoperable automobile, truck, motorcycle,
23 recreational vehicle, or trailer but does not include a device
24 moved by human power or used exclusively on a stationary rail or
25 track.

26 (15) "Vehicle owner" means a person:

27 (A) named as the purchaser or transferee in the

1 certificate of title issued for the vehicle under Chapter 501,
2 Transportation Code;

3 (B) in whose name the vehicle is registered under
4 Chapter 502, Transportation Code, or a member of the person's
5 immediate family;

6 (C) who holds the vehicle through a lease
7 agreement;

8 (D) who is an unrecorded lienholder entitled to
9 possess the vehicle under the terms of a chattel mortgage; or

10 (E) who is a lienholder holding an affidavit of
11 repossession and entitled to repossess the vehicle.

12 (16) "Vehicle storage facility" means a vehicle
13 storage facility, as defined by Section 2303.002, that is operated
14 by a person who holds a license issued under Chapter 2303 to operate
15 the facility.

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

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

25 [Sections 2308.004-2308.050 reserved for expansion]

26 SUBCHAPTER B. ADVISORY BOARD

27 Sec. 2308.051. TOWING AND STORAGE ADVISORY BOARD. (a) The

1 advisory board consists of the following members appointed by the
2 presiding officer of the commission with the approval of the
3 commission:

4 (1) one representative of a towing company operating
5 in a county with a population of less than one million;

6 (2) one representative of a towing company operating
7 in a county with a population of one million or more;

8 (3) one owner of a vehicle storage facility located in
9 a county with a population of less than one million;

10 (4) one owner of a vehicle storage facility located in
11 a county with a population of one million or more;

12 (5) one parking facility owner;

13 (6) one law enforcement officer from a county with a
14 population of less than one million;

15 (7) one law enforcement officer from a county with a
16 population of one million or more; and

17 (8) one representative of property and casualty
18 insurers who write automobile insurance in this state.

19 (b) The advisory board must include representation for each
20 classification of towing.

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

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

1 (b) A member may not serve more than two full consecutive
2 terms.

3 (c) If a vacancy occurs during a term, the presiding officer
4 of the commission shall appoint a replacement who meets the
5 qualifications of the vacated position to serve for the remainder
6 of the term.

7 Sec. 2308.053. PRESIDING OFFICER. The presiding officer of
8 the commission shall appoint one of the advisory board members to
9 serve as presiding officer of the advisory board for a term of one
10 year. The presiding officer of the advisory board may vote on any
11 matter before the advisory board.

12 Sec. 2308.054. COMPENSATION; REIMBURSEMENT OF EXPENSES.
13 Advisory board members may not receive compensation but are
14 entitled to reimbursement for actual and necessary expenses
15 incurred in performing the functions of the advisory board, subject
16 to the General Appropriations Act.

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

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

23 Sec. 2308.057. RULES. (a) The commission shall adopt
24 rules for permitting tow trucks and licensing towing operators and
25 towing companies.

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

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

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

7 (1) the place of business of any person regulated
8 under this chapter; or

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

13 (b) The department shall conduct additional inspections
14 based on a schedule of risk-based inspections using the following
15 criteria:

16 (1) the type and nature of the towing company or
17 operator;

18 (2) the inspection history;

19 (3) any history of complaints involving the towing
20 company or operator; and

21 (4) any other factor determined by the commission by
22 rule.

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

26 (d) In conducting an inspection under this section, the
27 department may inspect a vehicle, a facility, business records, or

1 any other place or thing reasonably required to enforce this
2 chapter or a rule or order adopted under this chapter.

3 Sec. 2308.060. POWERS AND DUTIES OF ADVISORY BOARD. The
4 advisory board shall provide advice and recommendations to the
5 department on technical matters relevant to the administration and
6 enforcement of this chapter, including examination content,
7 licensing standards, and continuing education requirements.

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

10 [Sections 2308.062-2308.100 reserved for expansion]

11 SUBCHAPTER C. TOW TRUCK PERMIT REQUIREMENTS

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

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

18 (1) a completed application on a form prescribed by
19 the executive director;

20 (2) evidence that the applicant is in compliance with
21 drug testing requirements established by the department;

22 (3) evidence of insurance or financial responsibility
23 required under this subchapter;

24 (4) the required fees; and

25 (5) any other information required by the executive
26 director.

27 (b) The department may conduct an examination of any

1 criminal conviction of an applicant, including by obtaining any
2 criminal history record information permitted by law.

3 Sec. 2308.103. REQUIREMENTS FOR INCIDENT MANAGEMENT TOWING
4 PERMIT. (a) An incident management towing permit is required for a
5 tow truck used to perform any nonconsent tow initiated by a peace
6 officer, including a tow authorized under Section 545.3051,
7 Transportation Code.

8 (b) To be eligible for an incident management towing permit,
9 an applicant must submit evidence that:

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

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

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

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

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

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

27 (b) To be eligible for a private property towing permit, an

1 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 \$300,000 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 consent towing but not for incident management towing.

11 Sec. 2308.105. REQUIREMENTS FOR CONSENT TOWING PERMIT. (a)
12 A consent towing permit is required for a tow truck used to perform
13 a consent tow authorized by the vehicle owner.

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

16 (1) the tow truck is equipped to tow light-duty or
17 heavy-duty vehicles according to the manufacturer's towing
18 guidelines; and

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

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

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

25 (a) The department shall issue a permit under this subchapter to an
26 applicant who meets the requirements for a permit. The department
27 may deny an application if the applicant has had a permit revoked

1 under this chapter.

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

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

9 (b) The department shall notify the permit holder at least
10 30 days before the date a permit expires. The notice must be in
11 writing and sent to the permit holder's last known address
12 according to the records of the department.

13 (c) A permit holder may renew a permit under this chapter
14 by:

- 15 (1) paying a fee for each tow truck; and
16 (2) providing to the department evidence of continuing
17 insurance or financial responsibility in an amount required by this
18 chapter.

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

- 21 (1) show the permit number of the certificate issued
22 under Section 2308.106(b);
23 (2) show the type of permit issued;
24 (3) show the vehicle unit number;
25 (4) show the vehicle identification number; and
26 (5) contain a statement that the vehicle has been
27 issued a permit under this subchapter.

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

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

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

7 (e) If the department determines that the cab card system
8 described by Subsections (a) through (c) is not an efficient means
9 of enforcing this subchapter, the executive director by rule may
10 adopt an alternative method that is accessible by law enforcement
11 personnel in the field and provides for the enforcement of the
12 permit requirements of this subchapter.

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

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

18 (1) the permit holder's name;

19 (2) the permit holder's telephone number;

20 (3) the city and state where the permit holder is
21 located; and

22 (4) the permit number for the tow truck.

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

24 (1) printed in letters and numbers that are at least
25 two inches high and in a color that contrasts with the color of the
26 background surface; and

27 (2) permanently affixed in conspicuous places on both

1 sides of the tow truck.

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

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

8 (c) An applicant or permit holder must file with the
9 department evidence of insurance as required by this subchapter.

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

13 [Sections 2308.111-2308.150 reserved for expansion]

14 SUBCHAPTER D. LICENSE REQUIREMENTS

15 Sec. 2308.151. LICENSE REQUIRED. Unless the person holds
16 an appropriate license under this subchapter, a person may not:

17 (1) perform towing operations; or

18 (2) operate a towing company.

19 Sec. 2308.152. GENERAL LICENSE APPLICATION REQUIREMENTS.
20 An applicant for a license under this subchapter must submit to the
21 department:

22 (1) a completed application on a form prescribed by
23 the executive director;

24 (2) the required fees; and

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

26 Sec. 2308.153. INCIDENT MANAGEMENT TOWING OPERATOR'S
27 LICENSE. (a) An incident management towing operator's license is

1 required to operate a tow truck permitted under Section 2308.103.

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

4 (1) be a licensed Texas driver;

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

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

10 (4) pass an examination.

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

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

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

16 (1) be a licensed Texas driver;

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

20 (3) pass an examination.

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

24 (b) An applicant for a consent towing operator's license
25 must be a licensed Texas driver.

26 Sec. 2308.156. EXAMINATIONS. (a) The department may
27 accept, develop, or contract for the examinations required by this

1 subchapter, including the administration of the examinations. Each
2 examination must test the knowledge of the applicant about:

3 (1) equipment and procedures used in the types of
4 towing authorized by the applicable license; and

5 (2) the laws of this state, including department
6 rules, relating to towing.

7 (b) The executive director shall determine uniform
8 standards for acceptable performance on an examination.

9 Sec. 2308.157. NONTRANSFERABILITY OF LICENSE. A license
10 issued by the executive director is valid throughout this state and
11 is not transferable.

12 Sec. 2308.158. CONTINUING EDUCATION. (a) To renew an
13 incident management towing operator's license, the license holder
14 must complete a professional development commercial vehicle
15 operation course approved by the commission.

16 (b) A person providing continuing education under this
17 section must:

18 (1) register with the department; and

19 (2) comply with rules adopted by the commission
20 relating to continuing education.

21 ARTICLE 2. CONSOLIDATION OF LAWS RELATED TO TOWING

22 SECTION 2.01. Sections 643.201 and 643.203 through 643.208,
23 Transportation Code, are transferred to Chapter 2308, Occupations
24 Code, redesignated as Subchapter E, Chapter 2308, Occupations Code,
25 renumbered as Sections 2308.201 through 2308.207, Occupations
26 Code, and amended to read as follows:

1 SUBCHAPTER E. LOCAL REGULATION OF TOWING

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

10 (b) A political subdivision may not require the
11 registration of a tow truck that performs consent tows in the
12 political subdivision unless the owner of the tow truck has a place
13 of business in the territory of the political subdivision.

14 (c) A political subdivision may require the registration of
15 a tow truck that performs a nonconsent tow in the political
16 subdivision, regardless of whether the owner of the tow truck has a
17 place of business in the territory of the political subdivision.

18 (d) A political subdivision may not require a person who
19 holds a driver's license or commercial driver's license to obtain a
20 license or permit for operating a tow truck unless the person
21 performs nonconsent tows in the territory of the political
22 subdivision. A fee charged for a license or permit may not exceed
23 \$15.

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

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

27 ~~[(2) "Consent tow" means any tow of a motor vehicle~~

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

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

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

10 Sec. 2308.202 [~~643.203~~]. REGULATION BY POLITICAL
11 SUBDIVISIONS OF FEES FOR NONCONSENT TOWS. The governing body of a
12 political subdivision shall [~~may~~] regulate the fees that may be
13 charged or collected in connection with a nonconsent tow
14 originating in the territory of the political subdivision.

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

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

24 Sec. 2308.204 [~~643.205~~]. FEES FOR NONCONSENT TOWS IN OTHER
25 AREAS. (a) In an area in which no political subdivision regulates
26 the fees that may be charged or collected for a nonconsent tow from
27 private property, a towing company may charge and collect a fee for

1 the tow of a motor vehicle from private property in an amount not to
2 exceed an amount equal to 150 percent of the fee that the towing
3 company would have been authorized to charge for a nonconsent tow
4 made at the request of a peace officer of the political subdivision
5 in which the private property is located.

6 (b) A towing company may charge and collect a fee for the tow
7 of a vehicle, with a gross vehicle weight rating in excess of 26,000
8 pounds, from private property in an amount not to exceed an amount
9 equal to 125 percent of the fee that the towing company would have
10 been authorized to charge for a nonconsent tow made at the request
11 of a peace officer of the political subdivision in which the private
12 property is located.

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

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

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

26 Sec. 2308.206 [~~643.207~~]. REQUIRED FILING. (a) Before
27 January 31 of each year, a towing company shall file with the

1 department a schedule showing each towing fee that the towing
2 company charges or collects in connection with a nonconsent tow.

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

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

10 (d) The department shall make towing fee schedules
11 available on the department's Internet website. The department
12 shall make no determination as to the reasonableness of a towing fee
13 schedule.

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

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

21 (b) A vehicle storage facility accepting a nonconsent towed
22 vehicle shall post a sign in one inch letters stating "Nonconsent
23 tow fees schedules available on request." The vehicle storage
24 facility shall provide a copy of a nonconsent towing fees schedule
25 on request.

26 SECTION 2.02. Section 684.101, Transportation Code, is
27 transferred to Subchapter E, Chapter 2308, Occupations Code, and

1 renumbered as Section 2308.208, Occupations Code, to read as
2 follows:

3 Sec. 2308.208 [~~684.101~~]. MUNICIPAL ORDINANCE REGULATING
4 UNAUTHORIZED VEHICLES. A municipality may adopt an ordinance that
5 is identical to this chapter or that imposes additional
6 requirements that exceed the minimum standards of this chapter but
7 may not adopt an ordinance conflicting with this chapter.

8 SECTION 2.03. Sections 684.011, 684.012, 684.0125,
9 684.013, 684.014, and 684.015, Transportation Code, are
10 transferred to Chapter 2308, Occupations Code, redesignated as
11 Subchapter F, Chapter 2308, Transportation Code, renumbered as
12 Sections 2308.251 through 2308.256, Occupations Code, and amended
13 to read as follows:

14 SUBCHAPTER F. UNAUTHORIZED VEHICLES

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

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

20 (2) prevents a vehicle from exiting a parking space in
21 the facility;

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

24 (4) does not display the special license plates issued
25 under Section 504.201, Transportation Code, or the disabled parking
26 placard issued under Chapter 681, Transportation Code, for a
27 vehicle transporting a disabled person and is in a parking space

1 that is designated for the exclusive use of a vehicle transporting a
2 disabled person.

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

6 (c) If a government regulation governing the marking of a
7 fire lane applies to a parking facility, a fire lane in the facility
8 must be marked as provided by the regulation. If a government
9 regulation on the marking of a fire lane does not apply to the
10 parking facility, all curbs of fire lanes must be painted red and be
11 conspicuously and legibly marked with the warning "FIRE LANE--TOW
12 AWAY ZONE" in white letters at least three inches tall, at intervals
13 not exceeding 50 feet.

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

20 (1) signs that comply with Subchapter G [€]
21 prohibiting unauthorized vehicles are located on the parking
22 facility at the time of towing and for the preceding 24 hours and
23 remain installed at the time of towing;

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

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

3 (4) the vehicle is:

4 (A) left in violation of Section 2308.251
5 [~~684.011~~] or 2308.253 [~~684.0125~~]; or

6 (B) in or obstructing a portion of a paved
7 driveway or abutting public roadway used for entering or exiting
8 the facility [~~and the removal is approved by a peace officer~~].

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

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

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

16 (B) a description of all other unauthorized areas
17 in the parking facility;

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

21 (D) a telephone number that is answered 24 hours
22 a day to enable the owner or operator of the vehicle to locate the
23 vehicle; and

24 (2) a notice is mailed after the notice is attached to
25 the vehicle as provided by Subdivision (1) to the owner of the
26 vehicle by certified mail, return receipt requested, to the last
27 address shown for the owner according to the vehicle registration

1 records of the Texas Department of Transportation, or if the
2 vehicle is registered in another state, the appropriate agency of
3 that state.

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

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

7 (2) describe all other unauthorized areas in the
8 parking facility;

9 (3) contain a warning that the unauthorized vehicle
10 will be towed at the expense of the owner or operator of the vehicle
11 if it is not removed from the parking facility before the 15th day
12 after the postmark date of the notice; and

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

15 (d) The mailing of a notice under Subsection (b)(2) is not
16 required if after the notice is attached under Subsection (b)(1)
17 the owner or operator of the vehicle leaves the vehicle in another
18 location where parking is unauthorized for the vehicle according to
19 the notice.

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

22 (a) This section applies only to a parking facility serving or
23 adjacent to an apartment complex consisting of one or more
24 residential apartment units and any adjacent real property serving
25 the apartment complex.

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

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

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

6 (3) is in or obstructs a restricted parking area or
7 parking space designated under Subchapter G [€], including a space
8 designated for the use of employees or maintenance personnel of the
9 parking facility or apartment complex;

10 (4) is in a tow away zone, other than a fire lane
11 covered by Section 2308.251(c) [~~684.011(c)~~], that is brightly
12 painted and is conspicuously and legibly marked with the warning
13 "TOW AWAY ZONE" in contrasting letters at least three inches tall;

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

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

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

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

27 (1) an unexpired license plate or registration

1 insignia issued for the vehicle under Chapter 502, Transportation
2 Code, or the vehicle registration law of another state or country;
3 or

4 (2) a valid vehicle inspection certificate issued
5 under Chapter 548, Transportation Code, or the vehicle inspection
6 law of another state or country.

7 (e) A contract provision providing for the removal from a
8 parking facility of a vehicle that does not display an unexpired
9 license plate or registration insignia or a valid inspection
10 certificate is valid only if the provision requires the owner or
11 operator of the vehicle to be given at least 10 days' written notice
12 that the vehicle will be towed from the facility at the vehicle
13 owner's or operator's expense if it is not removed from the parking
14 facility. The notice must be:

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

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

19 (f) This section may not be construed:

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

23 (2) to limit or restrict the enforcement of Chapter
24 683, Transportation Code, the abandoned motor vehicle law.

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

1 enforced.

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

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

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

10 Sec. 2308.255 [~~684.014~~]. TOWING COMPANY'S AUTHORITY TO
11 REMOVE AND STORE UNAUTHORIZED VEHICLE. (a) A towing company that
12 is insured as provided by Subsection (c) may, without the consent of
13 an owner or operator of an unauthorized vehicle, remove and store
14 the vehicle at a vehicle storage facility at the expense of the
15 owner or operator of the vehicle if:

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

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

20 (B) the owner or operator received notice under
21 Section 2308.252(a)(2) [~~684.012(a)(2)~~] or the parking facility
22 owner gave notice complying with Section 2308.252(a)(3)
23 [~~684.012(a)(3)~~]; or

24 (2) the vehicle is:

25 (A) left in violation of Section 2308.251
26 [~~684.011~~]; or

27 (B) in or obstructing a portion of a paved

1 driveway or abutting public roadway used for entering or exiting
2 the facility and the removal is approved by a peace officer.

3 (b) A towing company may not remove an unauthorized vehicle
4 except under:

5 (1) this chapter;

6 (2) a municipal ordinance that complies with Section
7 2308.208 [~~684.101~~]; or

8 (3) the direction of a peace officer or the owner or
9 operator of the vehicle.

10 (c) Only a towing company that is insured against liability
11 for property damage incurred in towing a vehicle may remove and
12 store an unauthorized vehicle under this section.

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

15 (1) requests that the towing company remove and store
16 the specific vehicle; or

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

20 Sec. 2308.256 [~~684.015~~]. VEHICLE STORAGE FACILITY'S DUTY
21 TO REPORT AFTER ACCEPTING UNAUTHORIZED VEHICLE. (a) A vehicle
22 storage facility accepting a vehicle that is towed under this
23 chapter shall within two hours after receiving the vehicle report
24 to the police department of the municipality in which the parking
25 facility is located, or, if the parking facility is not located in a
26 municipality having a police department, to the sheriff of the
27 county in which the parking facility is located:

- 1 (1) a general description of the vehicle;
- 2 (2) the state and number of the vehicle's license
3 plate, if any;
- 4 (3) the vehicle identification number of the vehicle,
5 if it can be ascertained;
- 6 (4) the location from which the vehicle was towed; and
- 7 (5) the name and location of the vehicle storage
8 facility where the vehicle is being stored.

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

11 SECTION 2.04. Subchapter C, Chapter 684, Transportation
12 Code, is transferred to Chapter 2308, Occupations Code,
13 redesignated as Subchapter G, Chapter 2308, Occupations Code,
14 renumbered as Sections 2308.301 through 2308.305, Occupations
15 Code, and amended to read as follows:

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

18 Sec. 2308.301 [~~684.031~~]. GENERAL REQUIREMENTS FOR SIGN
19 PROHIBITING UNAUTHORIZED VEHICLES. (a) Except as provided by
20 Subsection (a)(2)(B) and Section 2308.304 [~~684.034~~] or 2308.305
21 [~~684.035~~] an unauthorized vehicle may not be towed under Section
22 2308.252(a)(1) [~~684.012(a)(1)~~] unless a sign prohibiting
23 unauthorized vehicles on a parking facility is:

- 24 (1) facing and conspicuously visible to the driver of
25 a vehicle that enters the facility;
- 26 (2) located:
 - 27 (A) on the right or left side of each driveway or

1 curb-cut through which a vehicle can enter the facility, including
2 an entry from an alley abutting the facility; or

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

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

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

10 (3) permanently mounted on a pole, post, permanent
11 wall, or permanent barrier;

12 (4) installed on the parking facility; and

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

16 (b) Except as provided by Section 2308.305 [~~684.035~~], an
17 unauthorized vehicle may be towed under Section 2308.252(a)(1)
18 [~~684.012(a)(1)~~] only if each sign prohibiting unauthorized
19 vehicles:

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

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

22 (3) contains the international symbol for towing
23 vehicles;

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

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

1 (6) contains a statement of the days and hours of
2 towing enforcement; and

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

6 Sec. 2308.302 [~~684.032~~]. COLOR, LAYOUT, AND LETTERING
7 HEIGHT REQUIREMENTS. (a) Except as provided by Section 2308.305
8 [~~684.035~~], each sign required by this chapter must comply with the
9 color, layout, and lettering height requirements of this section.

10 (b) A bright red international towing symbol, which is a
11 solid silhouette of a tow truck towing a vehicle on a generally
12 rectangular white background, at least four inches in height, must
13 be on the uppermost portion of a sign or on a separate sign placed
14 immediately above the sign.

15 (c) The portion of the sign immediately below the
16 international towing symbol must contain the words "Towing
17 Enforced" or the information provided by Section 2308.301(b)(4)
18 [~~684.031(b)(4)~~] in lettering at least two inches in height. The
19 lettering on this portion of the sign must consist of white letters
20 on a bright red background.

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

25 (e) The bottommost portion of the sign must contain the
26 telephone number required by Section 2308.301(b) [~~684.031(b)~~], in
27 lettering at least one inch in height and may, if the facility owner

1 chooses or if an applicable municipal ordinance requires, include
2 the name and address of the storage facility to which an
3 unauthorized vehicle will be removed. The lettering on this
4 portion of the sign must consist of white letters on a bright red
5 background.

6 Sec. 2308.303 [~~684.033~~]. TELEPHONE NUMBER FOR LOCATING
7 TOWED VEHICLE REQUIRED. If a parking facility owner posts a sign
8 described by Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~],
9 the owner of a vehicle that is towed from the facility under this
10 chapter must be able to locate the vehicle by calling the telephone
11 number on the sign.

12 Sec. 2308.304 [~~684.034~~]. DESIGNATION OF RESTRICTED PARKING
13 SPACES ON OTHERWISE UNRESTRICTED PARKING FACILITY. A parking
14 facility owner may designate one or more spaces as restricted
15 parking spaces on a portion of an otherwise unrestricted parking
16 facility. Instead of installing a sign at each entrance to the
17 parking facility as provided by Section 2308.301(a)(2)
18 [~~684.031(a)(2)~~], an owner may place a sign that prohibits
19 unauthorized vehicles from parking in designated spaces and that
20 otherwise complies with Sections 2308.301 [~~684.031~~] and 2308.302
21 [~~684.032~~]:

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

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

1 the rear of which is at the entrance of the space.

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

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

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

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

21 SECTION 2.05. Subchapter D, Chapter 684, Transportation
22 Code, is transferred to Chapter 2308, Occupations Code,
23 redesignated as Subchapter H, Chapter 2308, Occupations Code,
24 renumbered as Sections 2308.351 through 2308.354, Occupations
25 Code, and amended to read as follows:

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

1 Sec. 2308.351 [~~684.051~~]. REMOVAL OF UNAUTHORIZED VEHICLE
2 FROM LEASED RIGHT-OF-WAY. Unless prohibited by the lease, a
3 parking facility owner or towing company may remove an unauthorized
4 vehicle parked in a leased area described by Section
5 2308.002(7)(B)(i) [~~684.001(1)(B)(i)~~] if the owner or towing
6 company gives notice under Section 2308.252(a)(1), (2), or (3)
7 [~~684.012(a)(1), (2), or (3)~~] and otherwise complies with this
8 chapter.

9 Sec. 2308.352 [~~684.052~~]. REMOVAL OF UNAUTHORIZED VEHICLE
10 FROM AREA BETWEEN PARKING FACILITY AND PUBLIC ROADWAY. Unless
11 prohibited by a municipal ordinance, a parking facility owner or
12 towing company may remove an unauthorized vehicle any part of which
13 is in an area described by Section 2308.002(7)(B)(ii)
14 [~~684.001(1)(B)(ii)~~] if notice provided by Section 2308.252(a)(2)
15 or (3) [~~684.012(a)(2) or (3)~~] is given and the owner or towing
16 company has otherwise complied with this chapter.

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

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

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

25 (2) grant written permission to an abutting parking
26 facility owner to:

27 (A) post one or more "No parking in R.O.W." signs

1 along a common property line of the facility and the roadway; and

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

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

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

7 (2) be placed facing the public roadway:

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

10 (B) at intervals so that no point in the boundary
11 line is less than 25 feet from a sign posted under this subsection;
12 and

13 (3) in all other respects comply with Subchapter G
14 [~~E~~].

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

20 Sec. 2308.354 [~~684.054~~]. AUTHORITY FOR REMOVAL OF VEHICLE
21 FROM PUBLIC ROADWAY. (a) Under an ordinance of a municipality
22 regulating the parking of vehicles in the municipality, to aid in
23 the enforcement of the ordinance, an employee designated by the
24 municipality may be authorized to:

25 (1) immobilize a vehicle parked in the municipality;

26 and

27 (2) remove an immobilized vehicle from a public

1 roadway in the municipality.

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

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

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

8 SECTION 2.06. Subchapter E, Chapter 684, Transportation
9 Code, is transferred to Chapter 2308, Occupations Code,
10 redesignated as Subchapter I, Chapter 2308, Occupations Code, and
11 renumbered as Sections 2308.401 through 2308.407, Occupations
12 Code, to read as follows:

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

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

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

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

1 from a parking facility.

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

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

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

11 (2) is:

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

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

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

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

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

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

1 under Subsection (a).

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

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

9 Sec. 2308.405 [~~684.085~~]. VIOLATION OF CHAPTER; FINE. A
10 violation of this chapter is a misdemeanor punishable by a fine of
11 not less than \$500 or more than \$1,500.

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

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

18 SECTION 2.07. Sections 685.002 through 685.010,
19 Transportation Code, are transferred to Chapter 2308, Occupations
20 Code, designated as Subchapter J, Chapter 2308, Occupations Code,
21 renumbered as Sections 2308.451 through 2308.459, Occupations
22 Code, and amended to read as follows:

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

24 Sec. 2308.451 [~~685.002~~]. PAYMENT OF COST OF REMOVAL AND
25 STORAGE OF VEHICLE. (a) If in a hearing held under this chapter the
26 court finds that a person or law enforcement agency authorized,
27 with probable cause, the removal and storage in a vehicle storage

1 facility of a vehicle, the person who requested the hearing shall
2 pay the costs of the removal and storage.

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

8 (1) pay the costs of the removal and storage; or

9 (2) reimburse the owner or operator for the cost of the
10 removal and storage paid by the owner or operator.

11 Sec. 2308.452 [~~685.003~~]. RIGHT OF OWNER OR OPERATOR OF
12 VEHICLE TO HEARING. The owner or operator of a vehicle that has
13 been removed and placed in a vehicle storage facility without the
14 consent of the owner or operator of the vehicle is entitled to a
15 hearing on whether probable cause existed for the removal and
16 placement.

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

20 Sec. 2308.454 [~~685.005~~]. NOTICE TO VEHICLE OWNER OR
21 OPERATOR. (a) If before a hearing held under this chapter the
22 owner or operator of a vehicle pays the costs of the vehicle's
23 removal or storage, the towing company or vehicle storage facility
24 that received the payment shall at the time of payment give the
25 owner or operator written notice of the person's rights under this
26 chapter.

27 (b) The operator of a vehicle storage facility that sends a

1 notice under Subchapter D, Chapter 2303, [~~Occupations Code,~~] shall
2 include with that notice a notice of the person's rights under this
3 chapter.

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

6 (1) a statement of:

7 (A) the person's right to submit a request within
8 14 days for a court hearing to determine whether probable cause
9 existed to remove the vehicle;

10 (B) the information that a request for a hearing
11 must contain; and

12 (C) any filing fee for the hearing;

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

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

17 (4) the name, address, and telephone number of the
18 person, property owner, or law enforcement agency that authorized
19 the removal of the vehicle; and

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

23 Sec. 2308.456 [~~685.007~~]. REQUEST FOR HEARING. (a) Except
24 as provided by Subsection (c), a person entitled to a hearing under
25 this chapter must deliver a written request for the hearing to the
26 court before the 14th day after the date the vehicle was removed and
27 placed in the vehicle storage facility, excluding Saturdays,

1 Sundays, and legal holidays.

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

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

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

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

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

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

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

13 (7) a copy of any receipt or notification that the
14 owner or operator received from the towing company or the vehicle
15 storage facility; ~~and~~

16 (8) if the vehicle was removed from a parking
17 facility:

18 (A) one or more photographs that show the
19 location and text of any sign posted at the facility restricting
20 parking of vehicles; or

21 (B) a statement that no sign restricting parking
22 was posted at the parking facility; and

23 (9) a statement explaining each reason why the owner
24 or operator of the vehicle believes no probable cause existed to
25 remove the vehicle.

26 (c) If notice was not given under Section 2308.454
27 [~~685.005~~], the 14-day deadline for requesting a hearing under

1 Subsection (a) does not apply, and the owner or operator of the
2 vehicle may deliver a written request for a hearing at any time.

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

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

7 Sec. 2308.458 [~~685.009~~]. HEARING. (a) A hearing under this
8 chapter shall be held before the 14th [~~10th~~] working day after the
9 date the court receives the request for the hearing.

10 (b) The court shall notify the person who requested the
11 hearing, ~~and~~ the person or law enforcement agency that authorized
12 the removal of the vehicle, and the vehicle storage facility in
13 which the vehicle was placed of the date, time, and place of the
14 hearing in a manner provided by Rule 21a, Texas Rules of Civil
15 Procedure [~~by registered or certified mail~~]. The notice of the
16 hearing to the person or law enforcement agency that authorized the
17 removal of the vehicle shall include a copy of the request for
18 hearing.

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

20 (1) the burden of proof is on the person who requested
21 the hearing; and

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

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

25 (1) whether probable cause existed for the removal and
26 placement of the vehicle;

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

1 connection with the removal or placement of the vehicle was greater
2 than the amount authorized by the political subdivision under
3 Section 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~];

4 (3) whether a towing charge imposed or collected in
5 connection with the removal or placement of the vehicle was greater
6 than the amount authorized under Section 2308.203 [~~643.204~~] or
7 2308.204 [~~643.205~~]; or

8 (4) whether a towing charge imposed or collected in
9 connection with the removal or placement of the vehicle was greater
10 than the amount filed with the department under Section 2308.206
11 [~~643.207~~].

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

14 (e) The court may award:

15 (1) court costs to the prevailing party;

16 (2) the reasonable cost of photographs submitted under
17 Section 2308.456(b)(8) [~~685.007(b)(8)~~] to a vehicle owner or
18 operator who is the prevailing party; [~~and~~]

19 (3) an amount equal to the amount that the towing
20 charge exceeded fees regulated by a political subdivision or
21 authorized by this code or by Chapter 2303; and

22 (4) reimbursement of fees paid for vehicle towing and
23 storage [~~, Occupations Code~~].

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

1 SECTION 2.08. Subchapter J, Chapter 2308, Occupations Code,
2 as added by this Act, is amended by adding Section 2308.460 to read
3 as follows:

4 Sec. 2308.460. ENFORCEMENT OF AWARD. An award under this
5 chapter may be enforced by any means available for the enforcement
6 of a judgment for a debt.

7 SECTION 2.09. Chapter 2308, Occupations Code, is amended by
8 adding Subchapter K to read as follows:

9 SUBCHAPTER K. ENFORCEMENT

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

15 (1) this chapter or a rule adopted under this chapter;

16 or

17 (2) a rule or order of the executive director or
18 commission.

19 (b) An administrative penalty may not be imposed unless the
20 person charged with a violation is provided the opportunity for a
21 hearing.

22 Sec. 2308.502. CEASE AND DESIST ORDER; INJUNCTION; CIVIL
23 PENALTY. (a) The executive director may issue a cease and desist
24 order as necessary to enforce this chapter if the executive
25 director determines that the action is necessary to prevent a
26 violation of this chapter and to protect public health and safety.

27 (b) The attorney general or executive director may

1 institute an action for an injunction or a civil penalty under this
2 chapter as provided by Section 51.352.

3 Sec. 2308.503. SANCTIONS. The department may impose
4 sanctions as provided by Section 51.353.

5 Sec. 2308.504. CRIMINAL PENALTY; LICENSING. (a) A person
6 commits an offense if the person:

7 (1) violates the permitting or licensing requirements
8 of this chapter;

9 (2) performs towing without a license to perform
10 towing in this state;

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

13 (4) falsifies a certification or training.

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

15 SECTION 2.10. Section 643.253(d), Transportation Code, is
16 transferred to Subchapter K, Chapter 2308, Occupations Code,
17 renumbered as Section 2308.505, Occupations Code, and amended to
18 read as follows:

19 Sec. 2308.505. CRIMINAL PENALTY; TOWING. (a) [~~(a)~~] A
20 person commits an offense if the person:

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

25 (2) charges or collects a fee in a political
26 subdivision that regulates the operation of tow trucks under
27 Section 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~] that is not

1 authorized or is greater than the authorized amount of the fee;

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

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

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

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

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

12 ARTICLE 3. CONFORMING AMENDMENTS

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

15 (e) Subchapter J, Chapter 2308, Occupations Code [~~Chapter~~
16 ~~685, Transportation Code~~], does not apply to a motor vehicle
17 directed by a law enforcement agency to be towed and stored for an
18 evidentiary or examination purpose.

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

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

23 (1) additional court cost in certain civil cases to
24 establish and maintain an alternative dispute resolution system, if
25 authorized by the commissioners court of a county with a population
26 of at least 2.5 million (Sec. 152.005, Civil Practice and Remedies
27 Code) . . . not to exceed \$3;

1 (2) additional filing fees:

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

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

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

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

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

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

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

25 (6) monthly payment for remaining court fees and costs
26 after the initial payment for a suit in which an affidavit or
27 unsworn declaration of inability to pay costs is filed by the inmate

1 (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser
2 of:

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

6 (B) the total amount of court fees and costs that
7 remain unpaid;

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

12 (A) expenses of service of process;

13 (B) postage; and

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

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

21 SECTION 3.03. Section 101.161, Government Code, is amended
22 to read as follows:

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

25 (1) a fee for a hearing on probable cause for removal
26 of a vehicle and placement in a storage facility if assessed by the
27 court (Sec. 2308.457, Occupations Code [~~685.008, Transportation~~

1 ~~Code~~) . . . \$20; and

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

6 SECTION 3.04. Section 2303.155(f), Occupations Code, is
7 amended to read as follows:

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

13 SECTION 3.05. Section 504.508(c), Transportation Code, is
14 amended to read as follows:

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

19 SECTION 3.06. Section 643.002, Transportation Code, is
20 amended to read as follows:

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

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

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

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

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

10 (5) a vehicle operating under a private carrier permit
11 issued under Chapter 42, Alcoholic Beverage Code; ~~or~~

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

13 (7) a tow truck, as defined by Section 2308.002,
14 Occupations Code.

15 SECTION 3.07. Section 643.051(a), Transportation Code, is
16 amended to read as follows:

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

21 SECTION 3.08. Section 643.053, Transportation Code, is
22 amended to read as follows:

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

26 (1) an application fee of \$100 plus a \$10 fee for each
27 vehicle requiring registration ~~[other than a tow truck or a \$25 fee~~

1 ~~for each tow truck the motor carrier proposes to operate];~~

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

4 (3) any insurance filing fee required under Section
5 643.103(c).

6 SECTION 3.09. Sections 643.057(a) and (d), Transportation
7 Code, are amended to read as follows:

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

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

18 SECTION 3.10. Section 643.058(c), Transportation Code, is
19 amended to read as follows:

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

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

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

27 (3) providing the department evidence of continuing

1 insurance or financial responsibility in an amount at least equal
2 to the amount set by the department under Section 643.101.

3 SECTION 3.11. Section 643.061(b), Transportation Code, is
4 amended to read as follows:

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

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

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

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

15 SECTION 3.12. Section 643.253(e), Transportation Code, is
16 amended to read as follows:

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

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

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

26 ARTICLE 4. TRANSITION AND EFFECTIVE DATE

27 SECTION 4.01. (a) The following provisions of the

1 Transportation Code are repealed:

2 (1) Section 643.001(7);

3 (2) Section 643.101(d);

4 (3) Section 643.202;

5 (4) Section 684.001;

6 (5) Section 685.001;

7 (6) the heading to Subchapter E, Chapter 643;

8 (7) the heading to Chapter 684;

9 (8) the headings to Subchapters A, B, and F, Chapter
10 684; and

11 (9) the heading to Chapter 685.

12 (b) Subchapters E and F, Chapter 2303, Occupations Code, are
13 repealed.

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

21 SECTION 4.03. (a) As soon as practicable after the
22 effective date of this Act, the Texas Department of Transportation
23 and the Texas Department of Licensing and Regulation shall develop
24 and enter into a memorandum of understanding regarding the transfer
25 described in this section that includes a transition plan for
26 transferring the functions performed by the Texas Transportation
27 Commission and the Texas Department of Transportation that relate

1 to tow trucks or towing operations to the Texas Department of
2 Licensing and Regulation. The transition plan must include a
3 timetable with specific steps and deadlines needed to complete the
4 transfer, and may include provisions for the extension of
5 expiration dates for licenses.

6 (b) In accordance with the transition plan developed by the
7 Texas Department of Transportation and the Texas Department of
8 Licensing and Regulation under Subsection (a) of this section, on
9 January 1, 2008:

10 (1) all functions and activities performed by the
11 Texas Transportation Commission and the Texas Department of
12 Transportation relating to tow trucks or towing operations
13 immediately before that date are transferred to the Texas
14 Department of Licensing and Regulation;

15 (2) a rule or form adopted by the Texas Transportation
16 Commission and the Texas Department of Transportation that relates
17 to tow trucks or towing operations is a rule or form of the Texas
18 Commission of Licensing and Regulation or the Texas Department of
19 Licensing and Regulation, as applicable, and remains in effect
20 until amended or replaced by that commission or department;

21 (3) a reference in law to or an administrative rule of
22 the Texas Transportation Commission and the Texas Department of
23 Transportation that relates to tow trucks or towing operations
24 means the Texas Commission of Licensing and Regulation or the Texas
25 Department of Licensing and Regulation, as applicable;

26 (4) a complaint, investigation, or other proceeding
27 before the Texas Transportation Commission or the Texas Department

1 of Transportation that is related to tow trucks or towing
2 operations is transferred without change in status to the Texas
3 Department of Licensing and Regulation, and the Texas Department of
4 Licensing and Regulation assumes, as appropriate and without a
5 change in status, the position of the Texas Transportation
6 Commission and the Texas Department of Transportation in an action
7 or proceeding to which the Texas Transportation Commission or the
8 Texas Department of Transportation is a party;

9 (5) all full-time equivalent employee positions at the
10 Texas Department of Transportation that primarily concern the
11 administration of tow trucks or towing operations become positions
12 at the Texas Department of Licensing and Regulation, and when
13 filling the positions, the Texas Department of Licensing and
14 Regulation shall give first consideration to an applicant who, as
15 of December 31, 2007, was a full-time employee at the Texas
16 Department of Transportation primarily involved in administering
17 tow trucks or towing operations;

18 (6) all money, contracts, leases, property, and
19 obligations of the Texas Department of Transportation related to
20 tow trucks or towing operations are transferred to the Texas
21 Department of Licensing and Regulation;

22 (7) all property in the custody of the Texas
23 Department of Transportation related to tow trucks or towing
24 operations is transferred to the Texas Department of Licensing and
25 Regulation; and

26 (8) the unexpended and unobligated balance of any
27 money appropriated by the legislature for the Texas Transportation

1 Commission and the Texas Department of Transportation related to
2 tow trucks or towing operations is transferred to the Texas
3 Department of Licensing and Regulation.

4 (c) Before January 1, 2008, the Texas Department of
5 Transportation may agree with the Texas Department of Licensing and
6 Regulation to transfer any property of the Texas Department of
7 Transportation to the Texas Department of Licensing and Regulation
8 to implement the transfer required by this Act.

9 (d) In the period beginning with the effective date of this
10 Act and ending on December 31, 2007, the Texas Transportation
11 Commission and the Texas Department of Transportation shall
12 continue to perform functions and activities under Chapter 2303,
13 Occupations Code, and those portions of Chapters 643 and 684,
14 Transportation Code, that relate to tow trucks or towing
15 operations, as if those laws were not amended by this Act, and the
16 former law is continued in effect for that purpose.

17 SECTION 4.04. Not later than April 1, 2008, the Texas
18 Commission of Licensing and Regulation shall adopt rules relating
19 to an original application for a permit or license under Chapter
20 2303, Occupations Code, as amended by this Act, and Chapter 2308,
21 Occupations Code, as added by this Act.

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

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

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

6 (3) pays the application fee.

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

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

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