

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Hill

H.B. No. 2094

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to hearings for owners or operators of vehicles that are  
3 towed and subsequently stored in a facility.

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

5 SECTION 1. Section 685.007(b), Transportation Code, is  
6 amended to read as follows:

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

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

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

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

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

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

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

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

21 (8) if the vehicle was removed from a parking  
22 facility:

23 (A) one or more photographs that show the  
24 location and text of any sign posted at the facility restricting

1 parking of vehicles; or

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

4 (9) a statement explaining each reason why the owner  
5 or operator of the vehicle believes no probable cause existed to  
6 remove the vehicle.

7 SECTION 2. Sections 685.009(a), (b), and (e),  
8 Transportation Code, are amended to read as follows:

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

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

21 (e) The court may award:

22 (1) court costs to the prevailing party;

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

26 (3) an amount equal to the amount that the towing  
27 charge exceeded fees regulated by a political subdivision or

1 authorized by this code or by Chapter 2303, Occupations Code; and  
2 (4) reimbursement of fees paid for vehicle towing and  
3 storage.

4 SECTION 3. Chapter 685, Transportation Code, is amended by  
5 adding Section 685.011 to read as follows:

6 Sec. 685.011. ENFORCEMENT OF AWARD. An award under this  
7 chapter may be enforced by any means available for the enforcement  
8 of judgment for debts.

9 SECTION 4. The changes in law made by this Act apply only to  
10 a motor vehicle removed and stored on or after the effective date of  
11 this Act. The removal and storage of a vehicle before the effective  
12 date of this Act is governed by the law in effect on the date the  
13 vehicle was removed and stored, and the former law is continued in  
14 effect for that purpose.

15 SECTION 5. This Act takes effect September 1, 2007.

ADOPTED

MAY 22 2007

*Atty. Gen. Law*  
Secretary of the Senate

By: Hill/Carona

H..B. No. 2094

Substitute the following for H..B. No. 2094:

By: Carona

C.S. H..B. No. 2094

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8 14th [~~10th~~] working day after the date the court receives the  
9 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.

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20 (1) court costs to the prevailing party;

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

24 (3) an amount equal to the amount that the towing

1 charge exceeded fees regulated by a political subdivision or  
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12 this Act. The removal and storage of a vehicle before the effective  
13 date of this Act is governed by the law in effect on the date the  
14 vehicle was removed and stored, and the former law is continued in  
15 effect for that purpose.

16 SECTION 4. This Act takes effect September 1, 2007.



# ADOPTED

MAY 22 2007

*Antony Spaw*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Carona*

1 Amend H.B. No. 2094 by striking all below the enacting clause  
2 and substituting the following:

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

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

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

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

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

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

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

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

22 (2) relate to the administrative sanctions that may be  
23 imposed on a person licensed under this chapter;

24 (3) govern the administration of this chapter.

25 SECTION 1.03. Subchapter B, Chapter 2303, Occupations Code,  
26 is amended by adding Sections 2303.055, 2303.056, 2303.057, and  
27 2303.058 to read as follows:

28 Sec. 2303.055. EXAMINATION OF CRIMINAL CONVICTION. The  
29 department may conduct an examination of any criminal conviction of

*16*

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

3 Sec. 2303.056. PERIODIC AND RISK-BASED INSPECTIONS. (a)

4 The department may enter and inspect at any time during business  
5 hours:

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

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

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

15 (c) The department shall conduct additional inspections  
16 based on a schedule of risk-based inspections using the following  
17 criteria:

18 (1) the type and nature of the vehicle storage  
19 facility;

20 (2) the inspection history of the vehicle storage  
21 facility;

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

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

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

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

31 Sec. 2303.058. ADVISORY BOARD. The Towing and Storage

1 Advisory Board under Chapter 2308 shall advise the commission in  
2 adopting vehicle storage rules under this chapter.

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

5 Sec. 2303.101. FACILITY LICENSE REQUIRED.

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

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

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

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

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

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

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

23 (2) the name and address of the president, secretary,  
24 and treasurer of the corporation, if the applicant is a corporation  
25 [~~and~~

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

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



1 (c) It is a defense to an action initiated by the department  
2 for a violation of this section that the operator of the facility  
3 unsuccessfully attempted in writing or electronically to obtain  
4 information from the governmental entity with which the vehicle is  
5 registered.

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

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

11 (1) a notification fee set in a reasonable amount for  
12 providing notice under this subchapter, including notice under  
13 Section 2303.154(c);

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

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

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

19 (3) a daily storage fee of:

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

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

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

29 (5) a fee in an amount set by the commission for the  
30 remediation, recovery, or capture of an environmental or biological  
31 hazard.

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

3 Sec. 2303.160. DRUG TESTING OF EMPLOYEES. (a) A license  
4 holder shall establish a drug testing policy for employees of the  
5 vehicle storage facility operated by the license holder. A license  
6 holder that establishes a drug testing policy under this subsection  
7 may adopt the model drug testing policy adopted by the commission or  
8 may use another drug testing policy that the department determines  
9 is at least as stringent as the policy adopted by the commission.

10 (b) The commission by rule shall adopt a model drug testing  
11 policy for use by license holders. The model drug testing policy  
12 must be designed to ensure the safety of the public through  
13 appropriate drug testing and to protect the rights of employees.  
14 The model drug testing policy must:

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

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

20 SECTION 1.10. Section 2303.302, Occupations Code, is  
21 amended to read as follows:

22 Sec. 2303.302. CRIMINAL PENALTIES. (a) A person commits an  
23 offense if the person:

24 (1) violates the licensing requirements of [~~operates a~~  
25 ~~vehicle storage facility for which a license has not been issued~~  
26 ~~under~~] this chapter; or

27 (2) employs an individual who does not hold an  
28 appropriate license required by [~~violates a rule adopted by the~~  
29 ~~commission under~~] this chapter.

30 (b) An offense under this section is a Class C misdemeanor  
31 [~~punishable by a fine of not less than \$200 and not more than \$500~~].

1           ~~[(c) A person commits a separate offense for each day the~~  
2 ~~person violates this section.]~~

3           SECTION 1.11. Subchapter G, Chapter 2303, Occupations Code,  
4 is amended by adding Sections 2303.304 and 2303.305 to read as  
5 follows:

6           Sec. 2303.304. ADMINISTRATIVE PENALTY. (a) The commission  
7 may impose an administrative penalty on a person under Subchapter  
8 F, Chapter 51, regardless of whether the person holds a  
9 registration, permit, or license under this chapter, if the person  
10 violates:

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

12 or

13                   (2) a rule or order of the executive director or  
14 commission.

15           (b) An administrative penalty may not be imposed unless the  
16 person charged with a violation is provided the opportunity for a  
17 hearing.

18           Sec. 2303.305. CEASE AND DESIST ORDER; INJUNCTION; CIVIL  
19 PENALTY. (a) The executive director may issue a cease and desist  
20 order as necessary to enforce this chapter if the executive  
21 director determines that the action is necessary to prevent a  
22 violation of this chapter and to protect public health and safety.

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

26           SECTION 1.12. Subtitle A, Title 14, Occupations Code, is  
27 amended by adding Chapter 2308 to read as follows:

28                   CHAPTER 2308. VEHICLE TOWING

29                   SUBCHAPTER A. GENERAL PROVISIONS

30           Sec. 2308.001. SHORT TITLE. This chapter may be cited as  
31 the Texas Towing Act.

1           Sec. 2308.002. DEFINITIONS. In this chapter:

2           (1) "Advisory board" means the Towing and Storage  
3 Advisory Board.

4           (2) "Commission" means the Texas Commission of  
5 Licensing and Regulation.

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

12           (4) "Department" means the Texas Department of  
13 Licensing and Regulation.

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

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

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

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

23           (B) a commercial parking lot, a parking garage,  
24 and a parking area serving or adjacent to a business, church,  
25 school, home, apartment complex, property governed by a property  
26 owners' association, or government-owned property leased to a  
27 private person, including:

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

31           (ii) the area between the facility's

1 property line abutting a county or municipal public roadway and the  
2 center line of the roadway's drainage way or the curb of the  
3 roadway, whichever is farther from the facility's property line.

4 (8) "Parking facility owner" means:

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

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

11 (C) a property owner having an exclusive right  
12 under a dedicatory instrument, as that term is defined in Section  
13 202.001, Property Code, to use a parking space.

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

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

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

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

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

30 (14) "Vehicle" means a device in, on, or by which a  
31 person or property may be transported on a public roadway. The term

1 includes an operable or inoperable automobile, truck, motorcycle,  
2 recreational vehicle, or trailer but does not include a device  
3 moved by human power or used exclusively on a stationary rail or  
4 track.

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

6 (A) named as the purchaser or transferee in the  
7 certificate of title issued for the vehicle under Chapter 501,  
8 Transportation Code;

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

12 (C) who holds the vehicle through a lease  
13 agreement;

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

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

18 (16) "Vehicle storage facility" means a vehicle  
19 storage facility, as defined by Section 2303.002, that is operated  
20 by a person who holds a license issued under Chapter 2303 to operate  
21 the facility.

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

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

31 [Sections 2308.004-2308.050 reserved for expansion]

1                                    SUBCHAPTER B. ADVISORY BOARD

2                Sec. 2308.051. TOWING AND STORAGE ADVISORY BOARD. (a) The  
3 advisory board consists of the following members appointed by the  
4 presiding officer of the commission with the approval of the  
5 commission:

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

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

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

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

14                    (5) one parking facility owner;

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

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

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

21                    (b) The advisory board must include representation for each  
22 classification of towing.

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

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

30                    (b) A member may not serve more than two full consecutive  
31 terms.

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

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

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

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

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

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

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

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

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



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

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

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

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

12           (2) the inspection history;

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

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

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

20           (d) In conducting an inspection under this section, the  
21 department may inspect a vehicle, a facility, business records, or  
22 any other place or thing reasonably required to enforce this  
23 chapter or a rule or order adopted under this chapter.

24           Sec. 2308.060. POWERS AND DUTIES OF ADVISORY BOARD. The  
25 advisory board shall provide advice and recommendations to the  
26 department on technical matters relevant to the administration and  
27 enforcement of this chapter, including examination content,  
28 licensing standards, and continuing education requirements.

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

31           [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 applicant  
7 for a permit under this subchapter must submit to the department:

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

10                    (2) evidence of insurance or financial responsibility  
11 required under this subchapter;

12                    (3) the required fees; and

13                    (4) any other information required by the executive  
14 director.

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

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

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

25                    (1) the tow truck is equipped to tow light-duty or  
26 heavy-duty vehicles according to the manufacturer's towing  
27 guidelines;

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

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

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

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

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

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

13                 (1) the tow truck is equipped to tow light-duty or  
14 heavy-duty vehicles according to the manufacturer's towing  
15 guidelines;

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

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

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

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

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

27                 (1) the tow truck is equipped to tow light-duty or  
28 heavy-duty vehicles according to the manufacturer's towing  
29 guidelines; and

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

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

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

5           (a) The department shall issue a permit under this subchapter to an  
6 applicant who meets the requirements for a permit. The department  
7 may deny an application if the applicant has had a permit revoked  
8 under this chapter.

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

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

16           (b) The department shall notify the permit holder at least  
17 30 days before the date a permit expires. The notice must be in  
18 writing and sent to the permit holder's last known address  
19 according to the records of the department.

20           (c) A permit holder may renew a permit under this chapter  
21 by:

22                   (1) paying a fee for each tow truck; and

23                   (2) providing to the department evidence of continuing  
24 insurance or financial responsibility in an amount required by this  
25 chapter.

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

28                   (1) show the permit number of the certificate issued  
29 under Section 2308.106(b);

30                   (2) show the type of permit issued;

31                   (3) show the vehicle unit number;

1                   (4) show the vehicle identification number; and  
2                   (5) contain a statement that the vehicle has been  
3 issued a permit under this subchapter.

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

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

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

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

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

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

21                   (1) the permit holder's name;

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

23                   (3) the city and state where the permit holder is  
24 located; and

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

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

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

30                   (2) permanently affixed in conspicuous places on both  
31 sides of the tow truck.

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

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

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

9           (d) A permit holder shall keep evidence of insurance in a  
10 form approved by the department in the cab of each permitted tow  
11 truck.

12           [Sections 2308.111-2308.150 reserved for expansion]

13                   SUBCHAPTER D. LICENSE REQUIREMENTS

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

16                   (1) perform towing operations; or

17                   (2) operate a towing company.

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

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

23                   (2) the required fees; and

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

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

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

30                   (1) be a licensed Texas driver; and

31                   (2) be certified by the National Drivers Certification

1 Program of the Towing and Recovery Association of America or  
2 another certification program approved by the department.

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

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

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

8 (1) be a licensed Texas driver; and

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

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 be a licensed Texas driver.

17 Sec. 2308.156. NONTRANSFERABILITY OF LICENSE. A license  
18 issued by the executive director is valid throughout this state and  
19 is not transferable.

20 Sec. 2308.157. CONTINUING EDUCATION. (a) The commission by  
21 rule shall recognize, prepare, or administer continuing education  
22 programs for license holders. Except as provided by Subsection  
23 (c), each license holder must complete a continuing education  
24 program before the license holder may renew the license holder's  
25 license.

26 (b) A person recognized by the commission to offer a  
27 continuing education program must:

28 (1) register with the department; and

29 (2) comply with rules adopted by the commission  
30 relating to continuing education.

31 (c) To renew an incident management towing operator's

1 license the first time, a license holder must complete a  
2 professional development course relating to towing that is  
3 licensed or certified by the National Safety Council or another  
4 course approved and administered by the department under this  
5 section.

6 Sec. 2308.158. DRUG TESTING OF TOWING OPERATORS. (a) A  
7 towing company shall establish a drug testing policy for towing  
8 operators. A towing company that establishes a drug testing policy  
9 under this subsection may adopt the model drug testing policy  
10 adopted by the commission or may use another drug testing policy  
11 that the department determines is at least as stringent as the  
12 policy adopted by the commission.

13 (b) The commission by rule shall adopt a model drug testing  
14 policy for use by a towing company. The model drug testing policy  
15 must be designed to ensure the safety of the public through  
16 appropriate drug testing and to protect the rights of employees.  
17 The model drug testing policy must:

18 (1) require at least one scheduled drug test each year  
19 for each towing operator; and

20 (2) authorize random, unannounced drug testing for  
21 towing operators.

22 Sec. 2308.159. LICENSE RENEWAL. (a) A license issued under  
23 this subchapter is valid for one year. The department may adopt a  
24 system under which licenses expire at different times during the  
25 year.

26 (b) The department shall notify the license holder at least  
27 30 days before the date a license expires. The notice must be in  
28 writing and sent to the license holder's last known address  
29 according to the records of the department.

30 (c) A license holder may renew a license issued under this  
31 chapter by:



- 1                   (1) paying a renewal fee; and  
2                   (2) completing continuing education as required by  
3 Section 2308.157.

4                   ARTICLE 2. CONSOLIDATION OF LAWS RELATED TO TOWING

5                   SECTION 2.01. Sections 643.201 and 643.203 through 643.208,  
6 Transportation Code, are transferred to Chapter 2308, Occupations  
7 Code, designated as Subchapter E, Chapter 2308, Occupations Code,  
8 renumbered as Sections 2308.201 through 2308.207, Occupations  
9 Code, and amended to read as follows:

10                   SUBCHAPTER E. LOCAL REGULATION OF TOWING

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

19                   (b) A political subdivision may not require the  
20 registration of a tow truck that performs consent tows in the  
21 political subdivision unless the owner of the tow truck has a place  
22 of business in the territory of the political subdivision.

23                   (c) A political subdivision may require the registration of  
24 a tow truck that performs a nonconsent tow in the political  
25 subdivision, regardless of whether the owner of the tow truck has a  
26 place of business in the territory of the political subdivision.

27                   (d) A political subdivision may not require a person who  
28 holds a driver's license or commercial driver's license to obtain a  
29 license or permit for operating a tow truck unless the person  
30 performs nonconsent tows in the territory of the political  
31 subdivision. A fee charged for a license or permit may not exceed

1 \$15.

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

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

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

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

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

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

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

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

29 Sec. 2308.204 [~~643.205~~]. FEES FOR NONCONSENT TOWS IN OTHER  
30 AREAS. (a) In an area in which no political subdivision regulates  
31 the fees that may be charged or collected for a nonconsent tow from

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

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

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

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

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

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

31 (b) If a political subdivision begins regulating nonconsent

1 tow fees, the fees shall be reported to the department by the towing  
2 company before the 30th day after the regulation goes into effect.

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

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

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

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

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

23 SECTION 2.02. Section 684.101, Transportation Code, is  
24 transferred to Subchapter E, Chapter 2308, Occupations Code, and  
25 renumbered as Section 2308.208, Occupations Code, to read as  
26 follows:

27 Sec. 2308.208 [~~684.101~~]. MUNICIPAL ORDINANCE REGULATING  
28 UNAUTHORIZED VEHICLES. A municipality may adopt an ordinance that  
29 is identical to this chapter or that imposes additional  
30 requirements that exceed the minimum standards of this chapter but  
31 may not adopt an ordinance conflicting with this chapter.

1 SECTION 2.03. Sections 684.011, 684.012, 684.0125,  
2 684.013, 684.014, and 684.015, Transportation Code, are  
3 transferred to Chapter 2308, Occupations Code, designated as  
4 Subchapter F, Chapter 2308, Transportation Code, renumbered as  
5 Sections 2308.251 through 2308.256, Occupations Code, and amended  
6 to read as follows:

7 SUBCHAPTER F. UNAUTHORIZED VEHICLES

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

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

13 (2) prevents a vehicle from exiting a parking space in  
14 the facility;

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

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

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

26 (c) If a government regulation governing the marking of a  
27 fire lane applies to a parking facility, a fire lane in the facility  
28 must be marked as provided by the regulation. If a government  
29 regulation on the marking of a fire lane does not apply to the  
30 parking facility, all curbs of fire lanes must be painted red and be  
31 conspicuously and legibly marked with the warning "FIRE LANE--TOW

1 AWAY ZONE" in white letters at least three inches tall, at intervals  
2 not exceeding 50 feet.

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

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

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

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

19 (4) the vehicle is:

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

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

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

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

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

1 (B) a description of all other unauthorized areas  
2 in the parking facility;

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

6 (D) a telephone number that is answered 24 hours  
7 a day to enable the owner or operator of the vehicle to locate the  
8 vehicle; and

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

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

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

19 (2) describe all other unauthorized areas in the  
20 parking facility;

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

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

27 (d) The mailing of a notice under Subsection (b)(2) is not  
28 required if after the notice is attached under Subsection (b)(1)  
29 the owner or operator of the vehicle leaves the vehicle in another  
30 location where parking is unauthorized for the vehicle according to  
31 the notice.

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

3       (a) This section applies only to a parking facility serving or  
4 adjacent to an apartment complex consisting of one or more  
5 residential apartment units and any adjacent real property serving  
6 the apartment complex.

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

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

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

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

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

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

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

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



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

4 (1) an unexpired license plate or registration  
5 insignia issued for the vehicle under Chapter 502, Transportation  
6 Code, or the vehicle registration law of another state or country;  
7 or

8 (2) a valid vehicle inspection certificate issued  
9 under Chapter 548, Transportation Code, or the vehicle inspection  
10 law of another state or country.

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

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

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

23 (f) This section may not be construed:

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

27 (2) to limit or restrict the enforcement of Chapter  
28 683, Transportation Code, the abandoned motor vehicle law.

29 (g) A provision of an apartment lease or rental agreement  
30 entered into or renewed on or after January 1, 2004, that is in  
31 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  
28 driveway or abutting public roadway used for entering or exiting  
29 the facility and the removal is approved by a peace officer.

30           (b) A towing company may not remove an unauthorized vehicle  
31 except under:

- 1 (1) this chapter;
- 2 (2) a municipal ordinance that complies with Section
- 3 2308.208 [~~684.101~~]; or
- 4 (3) the direction of a peace officer or the owner or
- 5 operator of the vehicle.

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

7 for property damage incurred in towing a vehicle may remove and

8 store an unauthorized vehicle under this section.

9 (d) A towing company may remove and store a vehicle under

10 Subsection (a) only if the parking facility owner:

11 (1) requests that the towing company remove and store

12 the specific vehicle; or

13 (2) has a standing written agreement with the towing

14 company to enforce parking restrictions in the parking facility

15 from which the vehicle will be removed.

16 Sec. 2308.256 [~~684.015~~]. VEHICLE STORAGE FACILITY'S DUTY

17 TO REPORT AFTER ACCEPTING UNAUTHORIZED VEHICLE. (a) A vehicle

18 storage facility accepting a vehicle that is towed under this

19 chapter shall within two hours after receiving the vehicle report

20 to the police department of the municipality in which the parking

21 facility is located, or, if the parking facility is not located in a

22 municipality having a police department, to the sheriff of the

23 county in which the parking facility is located:

24 (1) a general description of the vehicle;

25 (2) the state and number of the vehicle's license

26 plate, if any;

27 (3) the vehicle identification number of the vehicle,

28 if it can be ascertained;

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

30 (5) the name and location of the vehicle storage

31 facility where the vehicle is being stored.

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

3 SECTION 2.04. Subchapter C, Chapter 684, Transportation  
4 Code, is transferred to Chapter 2308, Occupations Code, and  
5 redesignated as Subchapter G, Chapter 2308, Occupations Code, and  
6 Sections 684.031 through 684.035, Transportation Code, are  
7 renumbered as Sections 2308.301 through 2308.305, Occupations  
8 Code, and amended to read as follows:

9 SUBCHAPTER G [~~C~~]. SIGNS PROHIBITING UNAUTHORIZED VEHICLES AND  
10 DESIGNATING RESTRICTED AREAS

11 Sec. 2308.301 [~~684.031~~]. GENERAL REQUIREMENTS FOR SIGN  
12 PROHIBITING UNAUTHORIZED VEHICLES. (a) Except as provided by  
13 Subsection (a)(2)(B) and Section 2308.304 [~~684.034~~] or 2308.305  
14 [~~684.035~~] an unauthorized vehicle may not be towed under Section  
15 2308.252(a)(1) [~~684.012(a)(1)~~] unless a sign prohibiting  
16 unauthorized vehicles on a parking facility is:

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

19 (2) located:

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

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

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

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

30 (3) permanently mounted on a pole, post, permanent  
31 wall, or permanent barrier;

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

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

9 (1) is made of weather-resistant material;  
10 (2) is at least 18 inches wide and 24 inches tall;  
11 (3) contains the international symbol for towing  
12 vehicles;

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

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

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

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

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

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

31 (c) The portion of the sign immediately below the

1 international towing symbol must contain the words "Towing  
2 Enforced" or the information provided by Section 2308.301(b)(4)  
3 [~~684.031(b)(4)~~] in lettering at least two inches in height. The  
4 lettering on this portion of the sign must consist of white letters  
5 on a bright red background.

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

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

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

24 Sec. 2308.304 [~~684.034~~]. DESIGNATION OF RESTRICTED PARKING  
25 SPACES ON OTHERWISE UNRESTRICTED PARKING FACILITY. A parking  
26 facility owner may designate one or more spaces as restricted  
27 parking spaces on a portion of an otherwise unrestricted parking  
28 facility. Instead of installing a sign at each entrance to the  
29 parking facility as provided by Section 2308.301(a)(2)  
30 [~~684.031(a)(2)~~], an owner may place a sign that prohibits  
31 unauthorized vehicles from parking in designated spaces and that

1 otherwise complies with Sections 2308.301 [~~684.031~~] and 2308.302  
2 [~~684.032~~]:

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

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

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

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

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

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

29 SECTION 2.05. Subchapter D, Chapter 684, Transportation  
30 Code, is transferred to Chapter 2308, Occupations Code, and  
31 redesignated as Subchapter H, Chapter 2308, Occupations Code, and

1 Sections 684.051 through 684.054, Transportation Code, are  
2 renumbered as Sections 2308.351 through 2308.354, Occupations  
3 Code, and amended to read as follows:

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

6 Sec. 2308.351 [~~684.051~~]. REMOVAL OF UNAUTHORIZED VEHICLE  
7 FROM LEASED RIGHT-OF-WAY. Unless prohibited by the lease, a  
8 parking facility owner or towing company may remove an unauthorized  
9 vehicle parked in a leased area described by Section  
10 2308.002(7)(B)(i) [~~684.001(1)(B)(i)~~] if the owner or towing  
11 company gives notice under Section 2308.252(a)(1), (2), or (3)  
12 [~~684.012(a)(1), (2), or (3)~~] and otherwise complies with this  
13 chapter.

14 Sec. 2308.352 [~~684.052~~]. REMOVAL OF UNAUTHORIZED VEHICLE  
15 FROM AREA BETWEEN PARKING FACILITY AND PUBLIC ROADWAY. Unless  
16 prohibited by a municipal ordinance, a parking facility owner or  
17 towing company may remove an unauthorized vehicle any part of which  
18 is in an area described by Section 2308.002(7)(B)(ii)  
19 [~~684.001(1)(B)(ii)~~] if notice provided by Section 2308.252(a)(2)  
20 or (3) [~~684.012(a)(2) or (3)~~] is given and the owner or towing  
21 company has otherwise complied with this chapter.

22 Sec. 2308.353 [~~684.053~~]. REMOVAL UNDER GOVERNMENTAL  
23 ENTITY'S AUTHORITY OF UNAUTHORIZED VEHICLE PARKED IN RIGHT-OF-WAY.  
24 (a) A governmental entity that has jurisdiction over a public  
25 roadway and that has posted one or more signs in the right-of-way  
26 stating that parking is prohibited in the right-of-way may:

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

30 (2) grant written permission to an abutting parking  
31 facility owner to:



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

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

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

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

8 (2) be placed facing the public roadway:

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

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

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

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

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

26 (1) immobilize a vehicle parked in the municipality;  
27 and

28 (2) remove an immobilized vehicle from a public  
29 roadway in the municipality.

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

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

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

5 SECTION 2.06. Subchapter E, Chapter 684, Transportation  
6 Code, is transferred to Chapter 2308, Occupations Code, and  
7 redesignated as Subchapter I, Chapter 2308, Occupations Code, and  
8 Sections 684.081 through 684.087, Transportation Code, are  
9 renumbered as Sections 2308.401 through 2308.407, Occupations  
10 Code, to read as follows:

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

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

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

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

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

30 Sec. 2308.403 [~~684.083~~]. LIMITATION ON LIABILITY OF PARKING  
31 FACILITY OWNER FOR REMOVAL OR STORAGE OF UNAUTHORIZED VEHICLE. A

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1 parking facility owner who causes the removal of an unauthorized  
2 vehicle is not liable for damages arising from the removal or  
3 storage of the vehicle if the vehicle:

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

5 (2) is:

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

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

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

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

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

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

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

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

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

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

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

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

8 SECTION 2.07. Sections 685.002 through 685.010,  
9 Transportation Code, are transferred to Chapter 2308, Occupations  
10 Code, designated as Subchapter J, Chapter 2308, Occupations Code,  
11 renumbered as Sections 2308.451 through 2308.459, Occupations  
12 Code, and amended to read as follows:

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

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

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

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

28 Sec. 2308.452 [~~685.003~~]. RIGHT OF OWNER OR OPERATOR OF  
29 VEHICLE TO HEARING. The owner or operator of a vehicle that has  
30 been removed and placed in a vehicle storage facility without the  
31 consent of the owner or operator of the vehicle is entitled to a

1 hearing on whether probable cause existed for the removal and  
2 placement.

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

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

13 (b) The operator of a vehicle storage facility that sends a  
14 notice under Subchapter D, Chapter 2303, [~~Occupations Code~~] shall  
15 include with that notice a notice of the person's rights under this  
16 chapter.

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

19 (1) a statement of:

20 (A) the person's right to submit a request within  
21 14 days for a court hearing to determine whether probable cause  
22 existed to remove the vehicle;

23 (B) the information that a request for a hearing  
24 must contain; and

25 (C) any filing fee for the hearing;

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

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

30 (4) the name, address, and telephone number of the  
31 person, property owner, or law enforcement agency that authorized

1 the removal of the vehicle; and

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

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

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

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

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

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

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

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

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

22 (7) a copy of any receipt or notification that the  
23 owner or operator received from the towing company or the vehicle  
24 storage facility; and

25 (8) if the vehicle was removed from a parking  
26 facility:

27 (A) one or more photographs that show the  
28 location and text of any sign posted at the facility restricting  
29 parking of vehicles; or

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

1 (c) If notice was not given under Section 2308.454  
2 [~~685.005~~], the 14-day deadline for requesting a hearing under  
3 Subsection (a) does not apply, and the owner or operator of the  
4 vehicle may deliver a written request for a hearing at any time.

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

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

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

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

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

22 (1) the burden of proof is on the person who requested  
23 the hearing; and

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

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

27 (1) whether probable cause existed for the removal and  
28 placement of the vehicle;

29 (2) whether a towing charge imposed or collected in  
30 connection with the removal or placement of the vehicle was greater  
31 than the amount authorized by the political subdivision under

1 Section 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~];

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

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

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

12 (e) The court may award:

13 (1) court costs to the prevailing party;

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

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

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

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

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

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



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

3 SUBCHAPTER K. ENFORCEMENT

4 Sec. 2308.501. ADMINISTRATIVE PENALTY. (a) The commission  
5 may impose an administrative penalty on a person under Subchapter  
6 F, Chapter 51, regardless of whether the person holds a  
7 registration, permit, or license under this chapter, if the person  
8 violates:

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

10 or

11 (2) a rule or order of the executive director or  
12 commission.

13 (b) An administrative penalty may not be imposed unless the  
14 person charged with a violation is provided the opportunity for a  
15 hearing.

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

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

24 Sec. 2308.503. SANCTIONS. The department may impose  
25 sanctions as provided by Section 51.353.

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

28 (1) violates the permitting or licensing requirements  
29 of this chapter;

30 (2) performs towing without a license to perform  
31 towing in this state;

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

3           (4) falsifies a certification or training.

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

5           SECTION 2.10. Section 643.253(d), Transportation Code, is  
6 transferred to Subchapter K, Chapter 2308, Occupations Code,  
7 renumbered as Section 2308.505, Occupations Code, and amended to  
8 read as follows:

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

11           (1) violates an ordinance, resolution, order, rule, or  
12 regulation of a political subdivision adopted under Section  
13 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~], for which the political  
14 subdivision does not prescribe the penalty;

15           (2) charges or collects a fee in a political  
16 subdivision that regulates the operation of tow trucks under  
17 Section 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~] that is not  
18 authorized or is greater than the authorized amount of the fee;

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

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

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

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

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

29           ARTICLE 3. CONFORMING AMENDMENTS

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

1 (e) Subchapter J, Chapter 2308, Occupations Code [~~Chapter~~  
2 ~~685, Transportation Code~~], does not apply to a motor vehicle  
3 directed by a law enforcement agency to be towed and stored for an  
4 evidentiary or examination purpose.

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

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

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

14 (2) additional filing fees:

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

17 (B) for filing any civil action or proceeding  
18 requiring a filing fee, including an appeal, and on the filing of  
19 any counterclaim, cross-action, intervention, interpleader, or  
20 third-party action requiring a filing fee, to fund civil legal  
21 services for the indigent (Sec. 133.153, Local Government Code)  
22 . . . \$2;

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

25 (4) fee for hearing on probable cause for removal of a  
26 vehicle and placement in a storage facility if assessed by the court  
27 (Sec. 2308.457, Occupations Code [~~685.008, Transportation Code~~])  
28 . . . \$20;

29 (5) court fees and costs, if ordered by the court, for  
30 a suit filed by an inmate in which an affidavit or unsworn  
31 declaration of inability to pay costs is filed by the inmate (Sec.

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

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

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

7 (6) monthly payment for remaining court fees and costs  
8 after the initial payment for a suit in which an affidavit or  
9 unsworn declaration of inability to pay costs is filed by the inmate  
10 (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser  
11 of:

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

15 (B) the total amount of court fees and costs that  
16 remain unpaid;

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

21 (A) expenses of service of process;

22 (B) postage; and

23 (C) transportation, housing, or medical care  
24 incurred in connection with the appearance of the inmate in the  
25 court for any proceeding; and

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

30 SECTION 3.03. Section 101.161, Government Code, is amended  
31 to read as follows:

52

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

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

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

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

13           (f) The operator of a vehicle storage facility or  
14 governmental vehicle storage facility may not charge an additional  
15 fee related to the storage of a vehicle other than a fee authorized  
16 by this section or a towing fee authorized by Chapter 2308 [~~Chapter~~  
17 ~~643, Transportation Code~~].

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

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

24           SECTION 3.06. Section 643.002, Transportation Code, is  
25 amended to read as follows:

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

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

31           (2) a motor vehicle registered as a cotton vehicle

1 under Section 502.277;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (c) A motor carrier may renew a registration under this  
18 subchapter by:

19 (1) supplementing the application with any new  
20 information required under Section 643.056;

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

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

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

29 (b) A motor carrier applying for registration under this  
30 section must pay:

31 (1) a \$20 fee for each vehicle registered [~~other than a~~

1 ~~tow truck or a fee of \$50 for each tow truck]~~ under Subsection  
2 (a)(1);

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

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

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

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

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

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

19 ARTICLE 4. TRANSITION AND EFFECTIVE DATE

20 SECTION 4.01. (a) The following provisions of the  
21 Transportation Code are repealed:

22 (1) Section 643.001(7);

23 (2) Section 643.101(d);

24 (3) Section 643.202;

25 (4) Section 684.001;

26 (5) Section 685.001;

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

28 (7) the heading to Chapter 684;

29 (8) the headings to Subchapters A, B, and F, Chapter  
30 684; and

31 (9) the heading to Chapter 685.



1 (b) Subchapters E and F, Chapter 2303, Occupations Code, are  
2 repealed.

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

10 SECTION 4.03. (a) As soon as practicable after the  
11 effective date of this Act, the Texas Department of Transportation  
12 and the Texas Department of Licensing and Regulation shall develop  
13 and enter into a memorandum of understanding regarding the transfer  
14 described in this section that includes a transition plan for  
15 transferring the functions performed by the Texas Transportation  
16 Commission and the Texas Department of Transportation that relate  
17 to tow trucks, towing operations, or vehicle storage facilities to  
18 the Texas Department of Licensing and Regulation. The transition  
19 plan must include a timetable with specific steps and deadlines  
20 needed to complete the transfer, and may include provisions for the  
21 extension of expiration dates for licenses.

22 (b) In accordance with the transition plan developed by the  
23 Texas Department of Transportation and the Texas Department of  
24 Licensing and Regulation under Subsection (a) of this section, on  
25 January 1, 2008:

26 (1) all functions and activities performed by the  
27 Texas Transportation Commission and the Texas Department of  
28 Transportation relating to tow trucks, towing operations, or  
29 vehicle storage facilities immediately before that date are  
30 transferred to the Texas Department of Licensing and Regulation;

31 (2) a rule or form adopted by the Texas Transportation

1 Commission and the Texas Department of Transportation that relates  
2 to tow trucks, towing operations, or vehicle storage facilities is  
3 a rule or form of the Texas Commission of Licensing and Regulation  
4 or the Texas Department of Licensing and Regulation, as applicable,  
5 and remains in effect until amended or replaced by that commission  
6 or department;

7 (3) a reference in law to or an administrative rule of  
8 the Texas Transportation Commission and the Texas Department of  
9 Transportation that relates to tow trucks, towing operations, or  
10 vehicle storage facilities means the Texas Commission of Licensing  
11 and Regulation or the Texas Department of Licensing and Regulation,  
12 as applicable;

13 (4) a complaint, investigation, or other proceeding  
14 before the Texas Transportation Commission or the Texas Department  
15 of Transportation that is related to tow trucks, towing operations,  
16 or vehicle storage facilities is transferred without change in  
17 status to the Texas Department of Licensing and Regulation, and the  
18 Texas Department of Licensing and Regulation assumes, as  
19 appropriate and without a change in status, the position of the  
20 Texas Transportation Commission and the Texas Department of  
21 Transportation in an action or proceeding to which the Texas  
22 Transportation Commission or the Texas Department of  
23 Transportation is a party;

24 (5) all full-time equivalent employee positions at the  
25 Texas Department of Transportation that primarily concern the  
26 administration of tow trucks, towing operations, or vehicle storage  
27 facilities become positions at the Texas Department of Licensing  
28 and Regulation, and when filling the positions, the Texas  
29 Department of Licensing and Regulation shall give first  
30 consideration to an applicant who, as of December 31, 2007, was a  
31 full-time employee at the Texas Department of Transportation

1 primarily involved in administering tow trucks, towing operations,  
2 or vehicle storage facilities;

3 (6) all money, contracts, leases, property, and  
4 obligations of the Texas Department of Transportation related to  
5 the regulation of tow trucks, towing operations, or vehicle storage  
6 facilities are transferred to the Texas Department of Licensing and  
7 Regulation;

8 (7) all property in the custody of the Texas  
9 Department of Transportation related to tow trucks, towing  
10 operations, or vehicle storage facilities is transferred to the  
11 Texas Department of Licensing and Regulation; and

12 (8) the unexpended and unobligated balance of any  
13 money appropriated by the legislature for the Texas Transportation  
14 Commission and the Texas Department of Transportation related to  
15 tow trucks, towing operations, or vehicle storage facilities is  
16 transferred to the Texas Department of Licensing and Regulation.

17 (c) Before January 1, 2008, the Texas Department of  
18 Transportation may agree with the Texas Department of Licensing and  
19 Regulation to transfer any property of the Texas Department of  
20 Transportation to the Texas Department of Licensing and Regulation  
21 to implement the transfer required by this Act.

22 (d) In the period beginning with the effective date of this  
23 Act and ending on December 31, 2007, the Texas Transportation  
24 Commission and the Texas Department of Transportation shall  
25 continue to perform functions and activities under Chapter 2303,  
26 Occupations Code, and those portions of Chapters 643 and 684,  
27 Transportation Code, that relate to tow trucks, towing operations,  
28 or vehicle storage facilities, as if those laws were not amended by  
29 this Act, and the former law is continued in effect for that  
30 purpose.

31 SECTION 4.04. Not later than April 1, 2008, the Texas

1 Commission of Licensing and Regulation shall adopt rules relating  
2 to an original application for a permit or license under Chapter  
3 2303, Occupations Code, as amended by this Act, and Chapter 2308,  
4 Occupations Code, as added by this Act.

5 SECTION 4.05. (a) Except as provided by Subsection (b) of  
6 this section, this Act takes effect September 1, 2007.

7 (b) Section 2308.504, Occupations Code, as added by this  
8 Act, and Subchapters C and D, Chapter 2308, Occupations Code, as  
9 added by this Act, take effect September 1, 2008.

**ADOPTED**

FLOOR AMENDMENT NO. 2 to F.A. 1  
MAY 22 2007

BY: Jane Nelson

*Antony Spaul*  
Secretary of the Senate

1 Amend H.B. 2094 by adding the following appropriately  
2 numbered SECTION to the bill and renumbering subsequent SECTIONS  
3 of the bill accordingly:

4 SECTION \_\_\_\_ . Section 2303.155, Occupations Code, is  
5 amended by amending Subsection (b) and adding Subsection (h) to  
6 read as follows:

7 (b) Except as provided by Subsection (h), the [The]  
8 operator of a vehicle storage facility or governmental vehicle  
9 storage facility may charge the owner of a vehicle stored or  
10 parked at the facility:

11 (1) a notification fee set in a reasonable amount for  
12 providing notice under this subchapter, including notice under  
13 Section 2303.154(c);

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

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

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

19 (3) a daily storage fee of:

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

23 (B) \$35 for each day or part of a day the  
24 vehicle is stored at the facility if the vehicle is longer than  
25 25 feet; and

26 (4) any fee that is required to be submitted to a law  
27 enforcement agency, the agency's authorized agent, or a  
28 governmental entity.

29 (h) The operator of a vehicle storage facility or

1  
cel

1 governmental vehicle storage facility may not charge a fee under  
2 Subsection (b) to the owner of a vehicle stored or parked at the  
3 facility as a result of recovery of the vehicle after being  
4 stolen if the vehicle owner provides the operator with a copy of  
5 the police report or similar report prepared by any law  
6 enforcement agency showing that the vehicle was reported stolen.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 17, 2007**

**TO:** Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** **HB2094** by Hill (Relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.), **Committee Report 2nd House, Substituted**

**No fiscal implication to the State is anticipated.**

The bill would amend the Transportation Code to require a court to notify the vehicle storage facility in which a vehicle was placed of the date, time, and place of a hearing regarding the removal of the vehicle. The notification would be in addition to the notification required under current statute to notify the person who requested the hearing and the person or law enforcement agency that authorized removal of the vehicle.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** JOB, KJG, DB





**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 11, 2007**

**TO:** Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB2094** by Hill (Relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.), **As Engrossed**

**No fiscal implication to the State is anticipated.**

The bill would amend the Transportation Code to require a court to notify the vehicle storage facility in which a vehicle was placed of the date, time, and place of a hearing regarding the removal of the vehicle. The notification would be in addition to the notification required under current statute to notify the person who requested the hearing and the person or law enforcement agency that authorized removal of the vehicle.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** JOB, KJG, DB



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**March 15, 2007**

**TO:** Honorable Mike Krusee, Chair, House Committee on Transportation

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB2094** by Hill (Relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.), **As Introduced**

**No fiscal implication to the State is anticipated.**

The bill would amend the Transportation Code to require a court to notify the vehicle storage facility in which a vehicle was placed of the date, time, and place of a hearing regarding the removal of the vehicle. The notification would be in addition to the notification required under current statute to notify the person who requested the hearing and the person or law enforcement agency that authorized removal of the vehicle.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** JOB, KJG, DB

