

BILL ANALYSIS

Senate Research Center
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S.B. 702
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Legislation passed in the 80th Legislature, Regular Session, 2007, moved oversight of the towing and vehicle storage industry from the Texas Department of Transportation to the Texas Department of Licensing and Regulation (TDLR). The move provided increased oversight and a better regulatory system for the industry. However, several issues have arisen from the transition.

The Occupations Code provides for several types of licenses for a towing operator, including an incident management license, a private property license, and a consent tow operator's license. In addition to the towing operator license, Section 2303.101 (License Required), Occupations Code, requires a license holder in certain circumstances to also hold a vehicle storage facility license. Therefore, towing operators are required to hold two separate licenses from TDLR. This is burdensome to both the license applicant and TDLR, which is required to run two background checks on the same person.

In addition to the towing licenses, Sections 2308.153(b) (relating to requirements for an incident management towing operator's license), 2308.154(b) (relating to requirements for a private property towing operator's license), and 2308.155(b) (relating to requirements for a consent towing operator's license), respectively, require an applicant for a towing operator's license to also have a Texas driver's license. There are towing operators who live in bordering states, such as Arkansas, who work in Texas. These operators are required to obtain a Texas driver's license merely for the purpose of applying for a towing license with TDLR. There is also currently no temporary training license for those who are training to operate a tow truck.

As proposed, S.B. 702 requires a person who both works as a towing operator and in a vehicle storage facility to possess only one license. This bill authorizes an applicant to use a valid driver's license from any state in the United States to apply for a towing operator's license from TDLR. The bill also provides for a temporary training license for towing operators and adds alcohol testing to the policy a towing company is required to establish for towing operations.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 5 (Sections 2308.1551, Occupations Code) and SECTION 6 (Section 2308.158, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2303.1015(a), Occupations Code, to prohibit a person from working at a vehicle storage facility unless the person holds a license issued under this chapter or Chapter 2308 (Vehicle Towing).

SECTION 2. Amends Section 2308.153(b), Occupations Code, to require an applicant for an incident management towing operator's license to hold a valid driver's license issued by a state in the United States, rather than be a licensed Texas driver, and be certified by a program approved by the Texas Department of Licensing and Regulation (TDLR). Deletes existing text requiring a person to be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by TDLR.

SECTION 3. Amends Section 2308.154(b), Occupations Code, to require an applicant for a private property towing operations license to hold a valid driver's license issued by a state in the

United States and be certified by a program approved by TDLR, rather than the national Drivers Certification Program of the Towing and Recovery Association of America or another certification program.

SECTION 4. Amends Section 2308.155(b), Occupations Code, to require an applicant for a consent towing operations license to hold a valid driver's license issued by a state in the United States, rather than be a licensed Texas driver.

SECTION 5. Amends Subchapter D, Chapter 2308, Occupations Code, by adding Section 2308.1551, as follows:

Sec. 2308.1551. TEMPORARY TRAINING LICENSE. (a) Authorizes TDLR to issue a temporary training license to an applicant for a license under this subchapter if the applicant holds a valid driver's license issued by a state in the United States, meets the qualifications established by rule by the Texas Commission of Licensing and Regulation (commission), and is engaged in the process of learning and assisting in the operation of a tow truck under the supervision of a tow truck operator who holds the same type of license that the applicant is seeking.

(b) Authorizes an applicant for a license under Section 2308.153, notwithstanding Subsection (a), to be supervised by an operator who holds a license issued under Section 2308.153 (Incident Management Towing Operator's License), 2308.154 (Private Property Towing Operator's License), or 2308.155 (Consent Towing Operator's License).

(c) Provides that a temporary training license issued under this section expires on the 91st day after the date of issuance.

(d) Requires the commission by rule to set the fee, establish the qualifications, and provide for the issuance of a temporary training license under this section.

SECTION 6. Amends Section 2308.158, Occupations Code, as follows:

Sec. 2308.158. New heading: ALCOHOL AND DRUG TESTING OF TOWING OPERATORS. (a) Requires a towing company to establish an alcohol and drug testing policy for towing operators. Makes conforming changes.

(b) Requires the commission by rule to adopt a model alcohol and drug testing policy for use by a towing company. Makes conforming changes.

SECTION 7. (a) Makes application of Sections 2308.153, 2308.154, and 2308.155, Occupations Code, as added by this Act, prospective.

(b) Requires the commission, not later than November 30, 2009, to adopt the model alcohol and drug testing policy required by Section 2308.158, Occupations Code, as amended by this Act.

(c) Provides that a towing company is not required to comply with the alcohol and drug testing policy required by Section 2308.158, Occupations Code, as amended by this Act, until January 1, 2010.

SECTION 8. Effective date: September 1, 2009.