

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the towing and storage of vehicles.

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

SECTION 1. Subchapter C, Chapter 2303, Occupations Code, is amended by adding Section 2303.1016 to read as follows:

Sec. 2303.1016. VEHICLE STORAGE FACILITY EMPLOYEE AND TOWING OPERATOR; DUAL LICENSE. (a) The commission shall adopt rules for the issuance of a dual license for a person who is a vehicle storage facility employee and towing operator. The department shall issue the license to an applicant who:

(1) meets the requirements established under:

(A) Section 2303.1015;

(B) Section 2308.153, 2308.154, or 2308.155; and

(C) any applicable rules adopted under this subchapter or Subchapter D, Chapter 2308; and

(2) submits to the department:

(A) an application on a department-approved form; and

(B) the required license fee.

(b) A person holding a license issued under this section may:

(1) work at a vehicle storage facility; and

(2) perform towing operations.

(c) The fee for a license issued under this section may not

1 be:

2 (1) less than the fee for a license issued under
3 Section 2303.1015 or Subchapter D, Chapter 2308; or

4 (2) more than the sum of the fees for a license issued
5 under Section 2303.1015 and a license issued under Subchapter D,
6 Chapter 2308.

7 SECTION 2. Subdivision (11), Section 2308.002, Occupations
8 Code, is amended to read as follows:

9 (11) "Tow truck" means a motor vehicle, including a
10 wrecker, equipped with a mechanical device used to tow, winch, or
11 otherwise move another motor vehicle. The term does not include:

12 (A) a motor vehicle owned and operated by a
13 governmental entity, including a public school district;

14 (B) a motor vehicle towing:

15 (i) a race car;

16 (ii) a motor vehicle for exhibition; or

17 (iii) an antique motor vehicle;

18 (C) a recreational vehicle towing another
19 vehicle;

20 (D) a motor vehicle used in combination with a
21 tow bar, tow dolly, or other mechanical device if the vehicle is not
22 operated in the furtherance of a commercial enterprise;

23 (E) a motor vehicle that is controlled or
24 operated by a farmer or rancher and used for towing a farm vehicle;

25 or

26 (F) a motor vehicle that:

27 (i) is owned or operated by an entity the

1 primary business of which is the rental of motor vehicles; and
2 (ii) only tows vehicles rented by the
3 entity.

4 SECTION 3. Subchapter D, Chapter 2308, Occupations Code, is
5 amended by adding Section 2308.1521 to read as follows:

6 Sec. 2308.1521. VEHICLE STORAGE FACILITY EMPLOYEE AND
7 TOWING OPERATOR; DUAL LICENSE. (a) The commission shall adopt
8 rules for the issuance of a dual license for a person who is a
9 vehicle storage facility employee and towing operator. The
10 department shall issue the license to an applicant who:

11 (1) meets the requirements established under:
12 (A) Section 2308.153, 2308.154, or 2308.155;
13 (B) Section 2303.1015; and
14 (C) any applicable rules adopted under this
15 subchapter or Subchapter C, Chapter 2303; and

16 (2) submits to the department:
17 (A) an application on a department-approved
18 form; and
19 (B) the required license fee.

20 (b) A person holding a license issued under this section
21 may:

22 (1) work at a vehicle storage facility; and
23 (2) perform towing operations.

24 (c) The fee for a license issued under this section may not
25 be:

26 (1) less than the fee for a license issued under this
27 subchapter or Section 2303.1015; or

1 (2) more than the sum of the fees for a license issued
2 under this subchapter and a license issued under Section 2303.1015.

3 SECTION 4. Subsection (b), Section 2308.153, Occupations
4 Code, is amended to read as follows:

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

7 (1) hold a valid driver's license issued by a state in
8 the United States [~~be a licensed Texas driver~~]; and

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

13 SECTION 5. Subsection (b), Section 2308.154, Occupations
14 Code, is amended to read as follows:

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

17 (1) hold a valid driver's license issued by a state in
18 the United States [~~be a licensed Texas driver~~]; and

19 (2) be certified by a [~~the National Drivers~~
20 ~~Certification Program of the Towing and Recovery Association of~~
21 ~~America or another certification~~] program approved by the
22 department.

23 SECTION 6. Subsection (b), Section 2308.155, Occupations
24 Code, is amended to read as follows:

25 (b) An applicant for a consent towing operator's license
26 must hold a valid driver's license issued by a state in the United
27 States [~~be a licensed Texas driver~~].

1 SECTION 7. Subchapter D, Chapter 2308, Occupations Code, is
2 amended by adding Section 2308.1551 to read as follows:

3 Sec. 2308.1551. TRAINING LICENSE. (a) The department may
4 issue a training license to an applicant for a license under this
5 subchapter if the applicant:

6 (1) holds a valid driver's license issued by a state in
7 the United States;

8 (2) meets the qualifications established by rule by
9 the commission; and

10 (3) is engaged in the process of learning and
11 assisting in the operation of a tow truck under the supervision of a
12 licensed tow truck operator.

13 (b) Notwithstanding Subsection (a), an applicant for a
14 license under Section 2308.153 may be supervised by an operator who
15 holds a license issued under Section 2308.153, 2308.154, or
16 2308.155.

17 (c) A training license issued under this section expires on
18 the 91st day after the date of issuance and may not be renewed.

19 (d) The commission by rule shall set the fee, establish the
20 qualifications, and provide for the issuance of a training license
21 under this section.

22 SECTION 8. Section 2308.158, Occupations Code, is amended
23 to read as follows:

24 Sec. 2308.158. ALCOHOL AND DRUG TESTING OF TOWING
25 OPERATORS. (a) A towing company shall establish an alcohol and
26 [a] drug testing policy for towing operators. A towing company that
27 establishes an alcohol and [a] drug testing policy under this

1 subsection may adopt the model alcohol and drug testing policy
2 adopted by the commission or may use another alcohol and drug
3 testing policy that the department determines is at least as
4 stringent as the policy adopted by the commission.

5 (b) The commission by rule shall adopt a model alcohol and
6 drug testing policy for use by a towing company. The model alcohol
7 and drug testing policy must be designed to ensure the safety of the
8 public through appropriate alcohol and drug testing and to protect
9 the rights of employees. The model alcohol and drug testing policy
10 must:

11 (1) require at least one scheduled alcohol and drug
12 test each year for each towing operator; and

13 (2) authorize random, unannounced alcohol and drug
14 testing for towing operators.

15 SECTION 9. Section 2308.202, Occupations Code, is amended
16 to read as follows:

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

22 SECTION 10. Subchapter G, Chapter 2308, Occupations Code,
23 is amended by adding Section 2308.306 to read as follows:

24 Sec. 2308.306. NOTICE REGARDING AMOUNT CHARGED FOR TOWING
25 REQUIRED. A sign posted under this subchapter must include notice
26 regarding the amount that may be charged for towing.

27 SECTION 11. (a) The changes in law made by this Act to

1 Sections 2308.153, 2308.154, and 2308.155, Occupations Code, apply
2 only to a license application filed on or after the effective date
3 of this Act. A license application filed before the effective date
4 of this Act is governed by the law in effect when the license
5 application was filed, and the former law is continued in effect for
6 that purpose.

7 (b) Not later than April 1, 2010, the Texas Commission of
8 Licensing and Regulation shall adopt the model alcohol and drug
9 testing policy required by Section 2308.158, Occupations Code, as
10 amended by this Act.

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

14 (d) Not later than April 1, 2010, the Texas Commission of
15 Licensing and Regulation shall adopt rules as necessary to
16 implement Sections 2303.1016, 2308.1521, and 2308.1551,
17 Occupations Code, as added by this Act.

18 SECTION 12. (a) Except as provided by Subsection (b) of
19 this section, this Act takes effect September 1, 2009.

20 (b) Sections 2303.1016, 2308.1521, and 2308.1551,
21 Occupations Code, as added by this Act, take effect June 1, 2010.