

By: Carona

S.B. No. 702

Substitute the following for S.B. No. 702:

By: Pickett

C.S.S.B. No. 702

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. Subchapter D, Chapter 2303, Occupations Code, is  
8 amended by adding Sections 2303.1511 and 2303.1551 to read as  
9 follows:

10 Sec. 2303.1511. VEHICLE STORAGE FACILITY'S DUTY TO REPORT  
11 AFTER ACCEPTING UNAUTHORIZED VEHICLE. (a) A vehicle storage  
12 facility accepting a vehicle that is towed under this chapter  
13 shall, within two hours after receiving the vehicle, report to the  
14 local law enforcement agency with jurisdiction over the area from  
15 which the vehicle was towed:

16 (1) a general description of the vehicle;

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

19 (3) the vehicle identification number of the vehicle,  
20 if it can be ascertained;

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

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

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

27 Sec. 2303.1551. REQUIRED POSTING. (a) All storage fees

1 shall be posted at the licensed vehicle storage facility to which  
2 the motor vehicle has been delivered and shall be posted in view of  
3 the person who claims the vehicle.

4 (b) A vehicle storage facility accepting a nonconsent towed  
5 vehicle shall post a sign in one inch letters stating "Nonconsent  
6 tow fees schedules available on request." The vehicle storage  
7 facility shall provide a copy of a nonconsent towing fees schedule  
8 on request.

9 SECTION 3. Section 2308.002(11), Occupations Code, is  
10 amended to read as follows:

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

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

16 (B) a motor vehicle towing:

17 (i) a race car;

18 (ii) a motor vehicle for exhibition; or

19 (iii) an antique motor vehicle;

20 (C) a recreational vehicle towing another  
21 vehicle;

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

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

27 or

1           (F) a motor vehicle that:

2                   (i) is owned or operated by an entity the  
3 primary business of which is the rental of motor vehicles; and

4                   (ii) only tows vehicles rented by the  
5 entity.

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

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

13                   (1) meets the requirements established under:

14                           (A) Section 2308.153, 2308.154, or 2308.155;

15                           (B) Section 2303.1015; and

16                           (C) any applicable rules adopted under this  
17 subchapter or Subchapter C, Chapter 2303; and

18                   (2) submits to the department:

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

21                           (B) the required license fee.

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

24                           (1) work at a vehicle storage facility; and

25                           (2) perform towing operations.

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

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

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

5           SECTION 5. Section 2308.153(b), Occupations Code, is  
6 amended to read as follows:

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

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

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

15           SECTION 6. Section 2308.154(b), Occupations Code, is  
16 amended to read as follows:

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

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

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

25           SECTION 7. Section 2308.155(b), Occupations Code, is  
26 amended to read as follows:

27           (b) An applicant for a consent towing operator's license

1 must hold a valid driver's license issued by a state in the United  
2 States [~~be a licensed Texas driver~~].

3 SECTION 8. Subchapter D, Chapter 2308, Occupations Code, is  
4 amended by adding Section 2308.1551 to read as follows:

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

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

10 (2) meets the qualifications established by rule by  
11 the commission; and

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

15 (b) Notwithstanding Subsection (a), an applicant for a  
16 license under Section 2308.153 may be supervised by an operator who  
17 holds a license issued under Section 2308.153, 2308.154, or  
18 2308.155.

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

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

24 SECTION 9. Section 2308.157(c), Occupations Code, is  
25 amended to read as follows:

26 (c) To renew an incident management towing operator's  
27 license the first time, a license holder must complete a

1 professional development course relating to incident management  
2 towing that is [~~licensed or certified by the National Safety~~  
3 ~~Council or another course~~] approved and administered by the  
4 department under this section.

5 SECTION 10. Section 2308.158, Occupations Code, is amended  
6 to read as follows:

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

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

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

23 (2) authorize random, unannounced alcohol and drug  
24 testing for towing operators.

25 SECTION 11. Section 2308.251(a), Occupations Code, is  
26 amended to read as follows:

27 (a) The owner or operator of a vehicle may not leave

1 unattended on a parking facility a vehicle that:

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

4 (2) prevents a vehicle from exiting a parking space in  
5 the facility;

6 (3) is in or obstructs a fire lane marked according to  
7 Subsection (c); ~~[or]~~

8 (4) does not display the special license plates issued  
9 under Section 504.201, Transportation Code, or the disabled parking  
10 placard issued under Chapter 681, Transportation Code, for a  
11 vehicle transporting a disabled person and is in a parking space  
12 that is designated for the exclusive use of a vehicle transporting a  
13 disabled person; or

14 (5) is leaking a fluid that presents a hazard or threat  
15 to persons or property.

16 SECTION 12. Subchapter F, Chapter 2308, Occupations Code,  
17 is amended by adding Section 2308.257 to read as follows:

18 Sec. 2308.257. REMOVAL OF CERTAIN UNAUTHORIZED VEHICLES IN  
19 RURAL AREAS. (a) This section applies only to an abandoned vehicle  
20 that has damaged a fence on private property in a rural area.

21 (b) A law enforcement agency directing a towing company or  
22 tow operator to remove an abandoned vehicle that is located on  
23 private property shall provide the towing company or tow operator  
24 with the name and telephone number of the property owner or the  
25 owner's agent if the owner or agent has provided the information to  
26 the law enforcement agency.

27 (c) A towing company or tow operator provided with



1 information under Subsection (b) shall contact the property owner  
2 or the owner's agent before entering private property to tow a  
3 vehicle described by Subsection (a).

4 SECTION 13. Sections 2308.207 and 2308.256, Occupations  
5 Code, are repealed.

6 SECTION 14. (a) The changes in law made by this Act to  
7 Sections 2308.153, 2308.154, and 2308.155, Occupations Code, apply  
8 only to a license application filed on or after the effective date  
9 of this Act. A license application filed before the effective date  
10 of this Act is governed by the law in effect when the license  
11 application was filed, and the former law is continued in effect for  
12 that purpose.

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

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

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

24 SECTION 15. (a) Except as provided by Subsection (b) of  
25 this section, this Act takes effect September 1, 2009.

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