

1-1 By: Carona S.B. No. 702  
1-2 (In the Senate - Filed February 6, 2009; February 25, 2009,  
1-3 read first time and referred to Committee on Transportation and  
1-4 Homeland Security; March 23, 2009, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 9, Nays  
1-6 0; March 23, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 702 By: Carona

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the regulation of the towing and storage of vehicles.  
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
1-12 SECTION 1. Subchapter C, Chapter 2303, Occupations Code, is  
1-13 amended by adding Section 2303.1016 to read as follows:  
1-14 Sec. 2303.1016. VEHICLE STORAGE FACILITY EMPLOYEE AND  
1-15 TOWING OPERATOR; DUAL LICENSE. (a) The commission shall adopt  
1-16 rules for the issuance of a dual license for a person who is a  
1-17 vehicle storage facility employee and towing operator. The  
1-18 department shall issue the license to an applicant who:  
1-19 (1) meets the requirements established under:  
1-20 (A) Section 2303.1015;  
1-21 (B) Section 2308.153, 2308.154, or 2308.155; and  
1-22 (C) any applicable rules adopted under this  
1-23 subchapter or Subchapter D, Chapter 2308; and  
1-24 (2) submits to the department:  
1-25 (A) an application on a department-approved  
1-26 form; and  
1-27 (B) the required license fee.  
1-28 (b) A person holding a license issued under this section  
1-29 may:  
1-30 (1) work at a vehicle storage facility; and  
1-31 (2) perform towing operations.  
1-32 (c) The fee for a license issued under this section may not  
1-33 be:  
1-34 (1) less than the fee for a license issued under  
1-35 Section 2303.1015 or Subchapter D, Chapter 2308; or  
1-36 (2) more than the sum of the fees for a license issued  
1-37 under Section 2303.1015 and a license issued under Subchapter D,  
1-38 Chapter 2308.  
1-39 SECTION 2. Subdivision (11), Section 2308.002, Occupations  
1-40 Code, is amended to read as follows:  
1-41 (11) "Tow truck" means a motor vehicle, including a  
1-42 wrecker, equipped with a mechanical device used to tow, winch, or  
1-43 otherwise move another motor vehicle. The term does not include:  
1-44 (A) a motor vehicle owned and operated by a  
1-45 governmental entity, including a public school district;  
1-46 (B) a motor vehicle towing:  
1-47 (i) a race car;  
1-48 (ii) a motor vehicle for exhibition; or  
1-49 (iii) an antique motor vehicle;  
1-50 (C) a recreational vehicle towing another  
1-51 vehicle;  
1-52 (D) a motor vehicle used in combination with a  
1-53 tow bar, tow dolly, or other mechanical device if the vehicle is not  
1-54 operated in the furtherance of a commercial enterprise;  
1-55 (E) a motor vehicle that is controlled or  
1-56 operated by a farmer or rancher and used for towing a farm vehicle;  
1-57 or  
1-58 (F) a motor vehicle that:  
1-59 (i) is owned or operated by an entity the  
1-60 primary business of which is the rental of motor vehicles; and  
1-61 (ii) only tows vehicles rented by the  
1-62 entity.  
1-63 SECTION 3. Subchapter D, Chapter 2308, Occupations Code, is

2-1 amended by adding Section 2308.1521 to read as follows:  
2-2 Sec. 2308.1521. VEHICLE STORAGE FACILITY EMPLOYEE AND  
2-3 TOWING OPERATOR; DUAL LICENSE. (a) The commission shall adopt  
2-4 rules for the issuance of a dual license for a person who is a  
2-5 vehicle storage facility employee and towing operator. The  
2-6 department shall issue the license to an applicant who:  
2-7 (1) meets the requirements established under:  
2-8 (A) Section 2308.153, 2308.154, or 2308.155;  
2-9 (B) Section 2303.1015; and  
2-10 (C) any applicable rules adopted under this  
2-11 subchapter or Subchapter C, Chapter 2303; and  
2-12 (2) submits to the department:  
2-13 (A) an application on a department-approved  
2-14 form; and  
2-15 (B) the required license fee.  
2-16 (b) A person holding a license issued under this section  
2-17 may:  
2-18 (1) work at a vehicle storage facility; and  
2-19 (2) perform towing operations.  
2-20 (c) The fee for a license issued under this section may not  
2-21 be:  
2-22 (1) less than the fee for a license issued under this  
2-23 subchapter or Section 2303.1015; or  
2-24 (2) more than the sum of the fees for a license issued  
2-25 under this subchapter and a license issued under Section 2303.1015.  
2-26 SECTION 4. Subsection (b), Section 2308.153, Occupations  
2-27 Code, is amended to read as follows:  
2-28 (b) An applicant for an incident management towing  
2-29 operator's license must:  
2-30 (1) hold a valid driver's license issued by a state in  
2-31 the United States ~~[be a licensed Texas driver]~~; and  
2-32 (2) be certified by a ~~[the National Drivers~~  
2-33 ~~Certification Program of the Towing and Recovery Association of~~  
2-34 ~~America or another certification]~~ program approved by the  
2-35 department.  
2-36 SECTION 5. Subsection (b), Section 2308.154, Occupations  
2-37 Code, is amended to read as follows:  
2-38 (b) An applicant for a private property towing operator's  
2-39 license must:  
2-40 (1) hold a valid driver's license issued by a state in  
2-41 the United States ~~[be a licensed Texas driver]~~; and  
2-42 (2) be certified by a ~~[the National Drivers~~  
2-43 ~~Certification Program of the Towing and Recovery Association of~~  
2-44 ~~America or another certification]~~ program approved by the  
2-45 department.  
2-46 SECTION 6. Subsection (b), Section 2308.155, Occupations  
2-47 Code, is amended to read as follows:  
2-48 (b) An applicant for a consent towing operator's license  
2-49 must hold a valid driver's license issued by a state in the United  
2-50 States ~~[be a licensed Texas driver]~~.  
2-51 SECTION 7. Subchapter D, Chapter 2308, Occupations Code, is  
2-52 amended by adding Section 2308.1551 to read as follows:  
2-53 Sec. 2308.1551. TRAINING LICENSE. (a) The department may  
2-54 issue a training license to an applicant for a license under this  
2-55 subchapter if the applicant:  
2-56 (1) holds a valid driver's license issued by a state in  
2-57 the United States;  
2-58 (2) meets the qualifications established by rule by  
2-59 the commission; and  
2-60 (3) is engaged in the process of learning and  
2-61 assisting in the operation of a tow truck under the supervision of a  
2-62 licensed tow truck operator.  
2-63 (b) Notwithstanding Subsection (a), an applicant for a  
2-64 license under Section 2308.153 may be supervised by an operator who  
2-65 holds a license issued under Section 2308.153, 2308.154, or  
2-66 2308.155.  
2-67 (c) A training license issued under this section expires on  
2-68 the 91st day after the date of issuance and may not be renewed.  
2-69 (d) The commission by rule shall set the fee, establish the

3-1 qualifications, and provide for the issuance of a training license  
3-2 under this section.

3-3 SECTION 8. Section 2308.158, Occupations Code, is amended  
3-4 to read as follows:

3-5 Sec. 2308.158. ALCOHOL AND DRUG TESTING OF TOWING  
3-6 OPERATORS. (a) A towing company shall establish an alcohol and  
3-7 [a] drug testing policy for towing operators. A towing company that  
3-8 establishes an alcohol and [a] drug testing policy under this  
3-9 subsection may adopt the model alcohol and drug testing policy  
3-10 adopted by the commission or may use another alcohol and drug  
3-11 testing policy that the department determines is at least as  
3-12 stringent as the policy adopted by the commission.

3-13 (b) The commission by rule shall adopt a model alcohol and  
3-14 drug testing policy for use by a towing company. The model alcohol  
3-15 and drug testing policy must be designed to ensure the safety of the  
3-16 public through appropriate alcohol and drug testing and to protect  
3-17 the rights of employees. The model alcohol and drug testing policy  
3-18 must:

3-19 (1) require at least one scheduled alcohol and drug  
3-20 test each year for each towing operator; and

3-21 (2) authorize random, unannounced alcohol and drug  
3-22 testing for towing operators.

3-23 SECTION 9. Section 2308.202, Occupations Code, is amended  
3-24 to read as follows:

3-25 Sec. 2308.202. REGULATION BY POLITICAL SUBDIVISIONS OF FEES  
3-26 FOR NONCONSENT TOWS. The governing body of a political subdivision  
3-27 shall ~~may~~ regulate the fees that may be charged or collected in  
3-28 connection with a nonconsent tow originating in the territory of  
3-29 the political subdivision.

3-30 SECTION 10. Subchapter G, Chapter 2308, Occupations Code,  
3-31 is amended by adding Section 2308.306 to read as follows:

3-32 Sec. 2308.306. NOTICE REGARDING AMOUNT CHARGED FOR TOWING  
3-33 REQUIRED. A sign posted under this subchapter must include notice  
3-34 regarding the amount that may be charged for towing.

3-35 SECTION 11. (a) The changes in law made by this Act to  
3-36 Sections 2308.153, 2308.154, and 2308.155, Occupations Code, apply  
3-37 only to a license application filed on or after the effective date  
3-38 of this Act. A license application filed before the effective date  
3-39 of this Act is governed by the law in effect when the license  
3-40 application was filed, and the former law is continued in effect for  
3-41 that purpose.

3-42 (b) Not later than April 1, 2010, the Texas Commission of  
3-43 Licensing and Regulation shall adopt the model alcohol and drug  
3-44 testing policy required by Section 2308.158, Occupations Code, as  
3-45 amended by this Act.

3-46 (c) A towing company is not required to comply with the  
3-47 alcohol and drug testing policy required by Section 2308.158,  
3-48 Occupations Code, as amended by this Act, until January 1, 2010.

3-49 (d) Not later than April 1, 2010, the Texas Commission of  
3-50 Licensing and Regulation shall adopt rules as necessary to  
3-51 implement Sections 2303.1016, 2308.1521, and 2308.1551,  
3-52 Occupations Code, as added by this Act.

3-53 SECTION 12. (a) Except as provided by Subsection (b) of  
3-54 this section, this Act takes effect September 1, 2009.

3-55 (b) Sections 2303.1016, 2308.1521, and 2308.1551,  
3-56 Occupations Code, as added by this Act, take effect June 1, 2010.

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