

By: Whitmire

S.B. No. 2153

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to booting of vehicles by private entities in parking  
3 facilities; providing penalties.

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

5 SECTION 1. The heading to Chapter 2308, Occupations Code,  
6 is amended to read as follows:

7 CHAPTER 2308. VEHICLE TOWING AND BOOTING

8 SECTION 2. Section 2308.001, Occupations Code, is amended  
9 to read as follows:

10 Sec. 2308.001. SHORT TITLE. This chapter may be cited as  
11 the Texas Towing and Booting Act.

12 SECTION 3. Section 2308.002, Occupations Code, is amended  
13 by amending Subdivision (1) and adding Subdivisions (1-a), (1-b),  
14 and (1-c) to read as follows:

15 (1) "Advisory board" means the Towing, ~~and~~ Storage,  
16 and Booting Advisory Board.

17 (1-a) "Boot" means a lockable road wheel clamp or  
18 similar vehicle immobilization device that is designed to  
19 immobilize a parked vehicle and prevent its movement until the  
20 device is unlocked or removed.

21 (1-b) "Booting company" means a person that controls,  
22 installs, or directs the installation and removal of one or more  
23 boots.

24 (1-c) "Boot operator" means an individual who installs

1 or removes a boot on or from a vehicle.

2 SECTION 4. The heading to Section 2308.051, Occupations  
3 Code, is amended to read as follows:

4 Sec. 2308.051. TOWING, ~~[AND]~~ STORAGE, AND BOOTING ADVISORY  
5 BOARD.

6 SECTION 5. Section 2308.051(a), Occupations Code, is  
7 amended to read as follows:

8 (a) The advisory board consists of the following members  
9 appointed by the presiding officer of the commission with the  
10 approval of the commission:

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

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

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

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

19 (5) one parking facility owner;

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

22 (7) one law enforcement officer from a county with a  
23 population of one million or more; ~~[and]~~

24 (8) one representative of property and casualty  
25 insurers who write automobile insurance in this state; and

26 (9) one representative of a booting company.

27 SECTION 6. Section 2308.057(a), Occupations Code, is

1 amended to read as follows:

2 (a) The commission shall adopt rules for permitting tow  
3 trucks and licensing towing operators, ~~and~~ towing companies,  
4 booting companies, and boot operators.

5 SECTION 7. Section 2308.151, Occupations Code, is amended  
6 to read as follows:

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

- 9 (1) perform towing operations; ~~or~~  
10 (2) operate a towing company;  
11 (3) perform booting operations; or  
12 (4) operate a booting company.

13 SECTION 8. Subchapter D, Chapter 2308, Occupations Code, is  
14 amended by adding Sections 2308.1555 and 2308.1556 to read as  
15 follows:

16 Sec. 2308.1555. BOOT OPERATOR'S LICENSE. (a) A boot  
17 operator's license is required to install or remove a boot from a  
18 vehicle.

19 (b) An applicant for a boot operator's license must be at  
20 least 18 years of age.

21 Sec. 2308.1556. BOOTING COMPANY LICENSE. (a) A booting  
22 company license is required for a person to operate a booting  
23 company.

24 (b) To be eligible for a booting company license, an  
25 applicant must submit evidence that the applicant is covered by:

- 26 (1) a general liability insurance policy on a broad  
27 form with:

1           (A) a combined single limit for bodily injury and  
2 property damage for each occurrence of at least \$500,000; and

3           (B) an aggregate limit for all occurrences for  
4 each policy year of at least \$500,000; and

5           (2) an automobile liability insurance policy covering  
6 the applicant and the applicant's employees for vehicles owned,  
7 hired, or otherwise used in the applicant's business with a  
8 combined single limit for each occurrence of at least \$500,000.

9           SECTION 9. The heading to Subchapter E, Chapter 2308,  
10 Occupations Code, is amended to read as follows:

11           SUBCHAPTER E. LOCAL REGULATION OF TOWING AND BOOTING

12           SECTION 10. Subchapter E, Chapter 2308, Occupations Code,  
13 is amended by adding Section 2308.2085 to read as follows:

14           Sec. 2308.2085. MUNICIPAL ORDINANCE REGULATING BOOTING  
15 COMPANIES AND OPERATORS. (a) A municipality may adopt an ordinance  
16 that is identical to the booting provisions in this chapter or that  
17 imposes additional requirements that exceed the minimum standards  
18 of the booting provisions in this chapter but may not adopt an  
19 ordinance that conflicts with the booting provisions in this  
20 chapter.

21           (b) A municipality may regulate the fees that may be charged  
22 in connection with the booting of a vehicle, including associated  
23 parking fees.

24           (c) A municipality may require booting companies to obtain a  
25 permit to operate in the municipality.

26           SECTION 11. Subchapter F, Chapter 2308, Occupations Code,  
27 is amended by adding Section 2308.257 to read as follows:

1       Sec. 2308.257. BOOTING OF UNAUTHORIZED VEHICLE. (a) A  
2 parking facility owner may, without the consent of the owner or  
3 operator of an unauthorized vehicle, cause a boot to be installed on  
4 the vehicle in the parking facility if signs that comply with  
5 Subchapter G prohibiting unauthorized vehicles are located on the  
6 parking facility at the time of the booting and for the preceding 24  
7 hours and remain installed at the time of the booting.

8       (b) A boot operator that installs a boot on a vehicle must  
9 affix a conspicuous notice to the vehicle's front windshield or  
10 driver's side window stating:

11             (1) that the vehicle has been booted and damage may  
12 occur if the vehicle is moved;

13             (2) the date and time the boot was installed;

14             (3) the name, address, and telephone number of the  
15 booting company;

16             (4) a telephone number that is answered 24 hours a day  
17 to enable the owner or operator of the vehicle to arrange for  
18 removal of the boot;

19             (5) the amount of the fee for removal of the boot and  
20 any associated parking fees; and

21             (6) notice of the right of a vehicle owner or vehicle  
22 operator to a hearing under Subchapter J.

23       (c) On removal of a boot, the boot operator shall provide a  
24 receipt to the vehicle owner or operator stating:

25             (1) the name of the person who removed the boot;

26             (2) the date and time the boot was removed;

27             (3) the name of the person to whom the vehicle was

1 released;

2 (4) the amount of fees paid for removal of the boot and  
3 any associated parking fees; and

4 (5) the right of the vehicle owner or operator to a  
5 hearing under Subchapter J.

6 (d) The booting company shall maintain a copy of the receipt  
7 at its place of business for a period of three years. A peace  
8 officer has the right, on request, to inspect and copy the records  
9 to determine compliance with the requirements of this section.

10 (e) A booting company shall accept payment by an electronic  
11 check, debit card, or credit card for any fee or charge for the  
12 removal of a boot.

13 SECTION 12. Section 2308.301, Occupations Code, is amended  
14 to read as follows:

15 Sec. 2308.301. GENERAL REQUIREMENTS FOR SIGN PROHIBITING  
16 UNAUTHORIZED VEHICLES. (a) Except as provided by Subsection  
17 (a)(2)(B) and Section 2308.304 or 2308.305, an unauthorized vehicle  
18 may not be towed under Section 2308.252(a)(1) or booted under  
19 Section 2308.257 unless a sign prohibiting unauthorized vehicles on  
20 a parking facility is:

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

23 (2) located:

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

27 (B) at intervals along the entrance so that no

1 entrance is farther than 25 feet from a sign if:

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

5 (ii) the width of an entrance exceeds 35  
6 feet;

7 (3) permanently mounted on a pole, post, permanent  
8 wall, or permanent barrier;

9 (4) installed on the parking facility; and

10 (5) installed so that the bottom edge of the sign is no  
11 lower than five feet and no higher than eight feet above ground  
12 level.

13 (b) Except as provided by Section 2308.305, an unauthorized  
14 vehicle may be towed under Section 2308.252(a)(1) or booted under  
15 Section 2308.257 only if each sign prohibiting unauthorized  
16 vehicles:

17 (1) is made of weather-resistant material;

18 (2) is at least 18 inches wide and 24 inches tall;

19 (3) contains the international symbol for towing  
20 vehicles;

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

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

25 (6) contains a statement of the days and hours of  
26 towing and booting enforcement; and

27 (7) contains a number, including the area code, of a

1 telephone that is answered 24 hours a day to enable an owner or  
2 operator of a vehicle to locate a towed [~~the~~] vehicle or to arrange  
3 for removal of a boot from a vehicle.

4 SECTION 13. Sections 2308.302(c) and (e), Occupations Code,  
5 are amended to read as follows:

6 (c) The portion of the sign immediately below the  
7 international towing symbol must contain the words "Towing And  
8 Booting Enforced" [~~or the information provided by Section~~  
9 ~~2308.301(b)(4)~~] in lettering at least two inches in height. The  
10 lettering on this portion of the sign must consist of white letters  
11 on a bright red background.

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

20 SECTION 14. The heading to Subchapter I, Chapter 2308,  
21 Occupations Code, is amended to read as follows:

22 SUBCHAPTER I. REGULATION OF TOWING COMPANIES, BOOTING COMPANIES,  
23 AND PARKING FACILITY OWNERS

24 SECTION 15. Section 2308.401, Occupations Code, is amended  
25 to read as follows:

26 Sec. 2308.401. PARKING FACILITY OWNER PROHIBITED FROM  
27 RECEIVING FINANCIAL GAIN FROM TOWING COMPANY OR BOOTING COMPANY.



1 (a) A parking facility owner may not directly or indirectly accept  
2 anything of value from:

3 (1) a towing company in connection with the removal of  
4 a vehicle from a parking facility; or

5 (2) a booting company in connection with booting a  
6 vehicle in a parking facility.

7 (b) A parking facility owner may not have a direct or  
8 indirect monetary interest in:

9 (1) a towing company that for compensation removes  
10 unauthorized vehicles from a parking facility in which the parking  
11 facility owner has an interest; or

12 (2) a booting company that for compensation boots  
13 vehicles in a parking facility in which the parking facility owner  
14 has an interest.

15 SECTION 16. Section 2308.402, Occupations Code, is amended  
16 to read as follows:

17 Sec. 2308.402. TOWING COMPANY AND BOOTING COMPANY  
18 PROHIBITED FROM FINANCIAL INVOLVEMENT WITH PARKING FACILITY OWNER.

19 (a) A towing company or booting company may not directly or  
20 indirectly give anything of value to a parking facility owner in  
21 connection with:

22 (1) the removal of a vehicle from a parking facility;  
23 or

24 (2) the booting of a vehicle in a parking facility.

25 (b) A towing company or booting company may not have a  
26 direct or indirect monetary interest in a parking facility:

27 (1) from which the towing company for compensation

1 removes unauthorized vehicles; or  
2 (2) in which the booting company for compensation  
3 installs boots on unauthorized vehicles.

4 SECTION 17. The heading to Section 2308.404, Occupations  
5 Code, is amended to read as follows:

6 Sec. 2308.404. CIVIL LIABILITY OF TOWING COMPANY, BOOTING  
7 COMPANY, OR PARKING FACILITY OWNER FOR VIOLATION OF CHAPTER.

8 SECTION 18. Sections 2308.404(a), (b), and (c), Occupations  
9 Code, are amended to read as follows:

10 (a) A towing company, booting company, or parking facility  
11 owner who violates this chapter is liable to the owner or operator  
12 of the vehicle that is the subject of the violation for:

13 (1) damages arising from the removal, ~~or~~ storage, or  
14 booting of the vehicle; and

15 (2) towing, ~~or~~ storage, or booting fees assessed in  
16 connection with the vehicle's removal, ~~or~~ storage, or booting.

17 (b) A vehicle's owner or operator is not required to prove  
18 negligence of a parking facility owner, ~~or~~ towing company, or  
19 booting company to recover under Subsection (a).

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

26 SECTION 19. The heading to Subchapter J, Chapter 2308,  
27 Occupations Code, is amended to read as follows:

1 SUBCHAPTER J. RIGHTS OF OWNERS AND OPERATORS OF STORED OR BOOTED  
2 VEHICLES

3 SECTION 20. The heading to Section 2308.451, Occupations  
4 Code, is amended to read as follows:

5 Sec. 2308.451. PAYMENT OF COST OF REMOVAL, ~~[AND]~~ STORAGE,  
6 AND BOOTING OF VEHICLE.

7 SECTION 21. Section 2308.451, Occupations Code, is amended  
8 by adding Subsections (c) and (d) to read as follows:

9 (c) If in a hearing held under this chapter the court finds  
10 that a person authorized, with probable cause, the booting of a  
11 vehicle in a parking facility, the person who requested the hearing  
12 shall pay the costs of the booting.

13 (d) If in a hearing held under this chapter the court does  
14 not find that a person authorized, with probable cause, the booting  
15 of a vehicle, the person that authorized the booting shall:

16 (1) pay the costs of the booting and any related  
17 parking fees; or

18 (2) reimburse the owner or operator for the cost of the  
19 booting and any related parking fees paid by the owner or operator.

20 SECTION 22. Section 2308.452, Occupations Code, is amended  
21 to read as follows:

22 Sec. 2308.452. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO  
23 HEARING. The owner or operator of a vehicle that has been removed  
24 and placed in a vehicle storage facility or booted without the  
25 consent of the owner or operator of the vehicle is entitled to a  
26 hearing on whether probable cause existed for the removal and  
27 placement or booting.

1 SECTION 23. Section 2308.453, Occupations Code, is amended  
2 to read as follows:

3 Sec. 2308.453. JURISDICTION. A hearing under this chapter  
4 shall be in the justice court having jurisdiction in:

5 (1) the precinct in which the vehicle storage facility  
6 is located; or

7 (2) for booted vehicles, the precinct in which the  
8 parking facility is located.

9 SECTION 24. Section 2308.454, Occupations Code, is amended  
10 by adding Subsections (c) and (d) to read as follows:

11 (c) If before a hearing held under this chapter the owner or  
12 operator of a vehicle pays the costs for removal of a boot, the  
13 booting company shall at the time of payment give the owner or  
14 operator written notice of the person's rights under this chapter.

15 (d) The booting operator that places a notice on a booted  
16 vehicle under Section 2308.257 shall include with that notice a  
17 notice of the person's rights under this chapter.

18 SECTION 25. Section 2308.455, Occupations Code, is amended  
19 to read as follows:

20 Sec. 2308.455. CONTENTS OF NOTICE. The notice under  
21 Section 2308.454 must include:

22 (1) a statement of:

23 (A) the person's right to submit a request within  
24 14 days for a court hearing to determine whether probable cause  
25 existed to remove, or install a boot on, the vehicle;

26 (B) the information that a request for a hearing  
27 must contain; and

- 1 (C) any filing fee for the hearing;
- 2 (2) the name, address, and telephone number of the  
3 towing company that removed the vehicle or the booting company that  
4 booted the vehicle;
- 5 (3) the name, address, and telephone number of the  
6 vehicle storage facility in which the vehicle was placed;
- 7 (4) the name, address, and telephone number of the  
8 person, property owner, or law enforcement agency that authorized  
9 the removal of the vehicle; and
- 10 (5) the name, address, and telephone number of the  
11 justice court having jurisdiction in the precinct in which the  
12 vehicle storage facility is located, or for booted vehicles, the  
13 name, address, and telephone number of the justice court having  
14 jurisdiction in the precinct in which the parking facility is  
15 located.

16 SECTION 26. Sections 2308.456(a) and (b), Occupations Code,  
17 are amended to read as follows:

18 (a) Except as provided by Subsection (c), a person entitled  
19 to a hearing under this chapter must deliver a written request for  
20 the hearing to the court before the 14th day after the date the  
21 vehicle was removed and placed in the vehicle storage facility or  
22 booted, excluding Saturdays, Sundays, and legal holidays.

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

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

26 (2) the location from which the vehicle was removed or  
27 in which the vehicle was booted;

1 (3) the date when the vehicle was removed or booted;

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

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

7 (6) the name, address, and telephone number of the  
8 towing company that removed the vehicle or of the booting company  
9 that installed a boot on the vehicle;

10 (7) a copy of any receipt or notification that the  
11 owner or operator received from the towing company, the booting  
12 company, or the vehicle storage facility; and

13 (8) if the vehicle was removed from or booted in a  
14 parking facility:

15 (A) one or more photographs that show the  
16 location and text of any sign posted at the facility restricting  
17 parking of vehicles; or

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

20 SECTION 27. Section 2308.458, Occupations Code, is amended  
21 by amending Subsections (b), (c), and (e) and adding Subsections  
22 (b-2) and (c-1) to read as follows:

23 (b) The court shall notify the person who requested the  
24 hearing for a towed vehicle, the person or law enforcement agency  
25 that authorized the removal of the vehicle, and the vehicle storage  
26 facility in which the vehicle was placed of the date, time, and  
27 place of the hearing in a manner provided by Rule 21a, Texas Rules

1 of Civil Procedure. The notice of the hearing to the person or law  
2 enforcement agency that authorized the removal of the vehicle must  
3 [~~shall~~] include a copy of the request for hearing.

4 (b-2) The court shall notify the person who requested the  
5 hearing for a booted vehicle, the parking facility in which the  
6 vehicle was booted, and the booting company of the date, time, and  
7 place of the hearing in a manner provided by Rule 21a, Texas Rules  
8 of Civil Procedure. The notice of hearing to the person that  
9 authorized the booting of the vehicle must include a copy of the  
10 request for hearing.

11 (c) The issues in a hearing regarding a towed vehicle under  
12 this chapter are:

13 (1) whether probable cause existed for the removal and  
14 placement of the vehicle;

15 (2) whether a towing charge imposed or collected in  
16 connection with the removal or placement of the vehicle was greater  
17 than the amount authorized by the political subdivision under  
18 Section 2308.201 or 2308.202;

19 (3) whether a towing charge imposed or collected in  
20 connection with the removal or placement of the vehicle was greater  
21 than the amount authorized under Section 2308.203 or 2308.204; or

22 (4) whether a towing charge imposed or collected in  
23 connection with the removal or placement of the vehicle was greater  
24 than the amount filed with the department under Section 2308.206.

25 (c-1) The issues in a hearing regarding a booted vehicle  
26 under this chapter are:

27 (1) whether probable cause existed for the booting of

1 the vehicle; and

2 (2) whether a boot removal charge imposed or collected  
3 in connection with the removal of the boot from the vehicle was  
4 greater than the amount authorized by the political subdivision  
5 under Section 2308.2085.

6 (e) The court may award:

7 (1) court costs to the prevailing party;

8 (2) the reasonable cost of photographs submitted under  
9 Section 2308.456(b)(8) to a vehicle owner or operator who is the  
10 prevailing party;

11 (3) an amount equal to the amount that the towing  
12 charge or booting removal charge and associated parking fees  
13 exceeded fees regulated by a political subdivision or authorized by  
14 this code or by Chapter 2303; and

15 (4) reimbursement of fees paid for vehicle towing,  
16 ~~and~~ storage, or removal of a boot.

17 SECTION 28. Section 2308.505(a), Occupations Code, is  
18 amended to read as follows:

19 (a) A person commits an offense if the person:

20 (1) violates an ordinance, resolution, order, rule, or  
21 regulation of a political subdivision adopted under Section  
22 2308.201, ~~or~~ 2308.202, or 2308.2085 for which the political  
23 subdivision does not prescribe the penalty;

24 (2) charges or collects a fee in a political  
25 subdivision that regulates the operation of tow trucks under  
26 Section 2308.201 or 2308.202 or booting under Section 2308.2085  
27 that is not authorized or is greater than the authorized amount of



1 the fee;

2 (3) charges or collects a fee greater than the amount  
3 authorized under Section 2308.204;

4 (4) charges or collects a fee in excess of the amount  
5 filed with the department under Section 2308.206;

6 (5) violates Section 2308.205; or

7 (6) violates a rule of the department applicable to a  
8 tow truck, ~~and~~ towing company, or booting company.

9 SECTION 29. Section 2303.058, Occupations Code, is amended  
10 to read as follows:

11 Sec. 2303.058. ADVISORY BOARD. The Towing, ~~and~~ Storage,  
12 and Booting Advisory Board under Chapter 2308 shall advise the  
13 commission in adopting vehicle storage rules under this chapter.

14 SECTION 30. Promptly after this Act takes effect, the  
15 presiding officer of the Texas Commission of Licensing and  
16 Regulation shall appoint to the Towing, Storage, and Booting  
17 Advisory Board one representative of a booting company as required  
18 by Section 2308.051(a), Occupations Code, as amended by this Act.

19 SECTION 31. This Act takes effect September 1, 2009.