

By: Flynn

H.B. No. 1691

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of motor vehicle towing,
booting, and storage.

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

SECTION 1. Section 2303.159, Occupations Code, is amended
by adding Subsection (a-1) to read as follows:

(a-1) A vehicle storage facility accepting payment of a fee
by credit card may collect an additional processing fee not to
exceed two percent of the amount of the fee being paid.

SECTION 2. Section 2303.304, Occupations Code, is amended
by amending Subsection (a) and adding Subsections (a-1) and (a-2)
to read as follows:

(a) The commission shall send a warning letter to a person
if:

(1) the commission reasonably believes that the person
has violated this chapter, a rule adopted under this chapter, or a
rule or order of the executive director or commission; and

(2) the person has not in the 12 months preceding the
date of the violation received a warning letter concerning a
violation similar in nature to the violation under Subdivision (1).

(a-1) The commission may impose an administrative penalty
on a person under Subchapter F, Chapter 51, regardless of whether
the person holds a registration, permit, or license under this
chapter, if:

1 (1) the commission has sent a warning letter to the
2 person under Subsection (a); and

3 (2) the person again violates~~[+~~
4 ~~[(1)]~~ this chapter,] ~~[or]~~ a rule adopted under this
5 chapter, [+] or

6 ~~[(2)]~~ a rule or order of the executive director or
7 commission in a manner that is similar in nature to the subject of
8 the warning sent under Subsection (a).

9 (a-2) For purposes of this section, violations are similar
10 in nature if the violations consist of the same or a similar course
11 of conduct, action, or practice, regardless of the number of times
12 the conduct, act, or practice determined to be a violation
13 occurred.

14 SECTION 3. Section 2308.257(e), Occupations Code, as added
15 by Chapter 845 (S.B. 2153), Acts of the 81st Legislature, Regular
16 Session, 2009, is amended to read as follows:

17 (e) A booting company shall accept payment by an electronic
18 check, debit card, or credit card for any fee or charge associated
19 with the removal of a boot. A booting company may not collect a fee
20 for any charge associated with the removal of a boot from a person
21 who offers to pay the charge with an electronic check, debit card,
22 or credit card form of payment that the booting company is not
23 equipped to accept. A booting company accepting payment by credit
24 card for any fee or charge associated with the removal of a boot may
25 collect an additional processing fee not to exceed two percent of
26 the amount of the fee or charge being paid.

27 SECTION 4. Subchapter I, Chapter 2308, Occupations Code, is

1 amended by adding Section 2308.408 to read as follows:

2 Sec. 2308.408. PAYMENT OF FEES BY CREDIT CARD; ADDITIONAL
3 FEE AUTHORIZED. A towing company accepting payment by credit card
4 for any fee or charge associated with the removal and storage of a
5 vehicle may collect an additional processing fee not to exceed two
6 percent of the amount of the fee or charge being paid.

7 SECTION 5. Section 2308.451, Occupations Code, is amended
8 by adding Subsection (e) to read as follows:

9 (e) If in a hearing held under this chapter the court finds
10 that the request for the hearing was frivolous, the court shall
11 award the towing company, booting company, vehicle storage
12 facility, or parking facility owner who prevails reasonable
13 attorney's fees and court costs.

14 SECTION 6. Section 2308.501, Occupations Code, is amended
15 by amending Subsection (a) and adding Subsections (a-1) and (a-2)
16 to read as follows:

17 (a) The commission shall send a warning letter to a person
18 if:

19 (1) the commission reasonably believes that the person
20 has violated this chapter, a rule adopted under this chapter, or a
21 rule or order of the executive director or commission; and

22 (2) the person has not in the 12 months preceding the
23 date of the violation received a warning letter concerning a
24 violation similar in nature to the violation under Subdivision (1).

25 (a-1) The commission may impose an administrative penalty
26 on a person under Subchapter F, Chapter 51, regardless of whether
27 the person holds a registration, permit, or license under this

1 chapter, if:

2 (1) the commission has sent a warning letter to the
3 person under Subsection (a); and

4 (2) the person again violates[+]

5 [~~(1)~~] this chapter, [~~or~~] a rule adopted under this
6 chapter, [+] or

7 [~~(2)~~] a rule or order of the executive director or
8 commission in a manner that is similar in nature to the subject of
9 the warning sent under Subsection (a).

10 (a-2) For purposes of this section, violations are similar
11 in nature if the violations consist of the same or a similar course
12 of conduct, action, or practice, regardless of the number of times
13 the conduct, act, or practice determined to be a violation
14 occurred.

15 SECTION 7. The changes in law made by this Act apply only to
16 the assessment or imposition of an administrative penalty under
17 Sections 2303.304 and 2308.501, Occupations Code, for a violation
18 that occurs on or after the effective date of this Act. The
19 assessment or imposition of an administrative penalty under
20 Sections 2303.304 and 2308.501, Occupations Code, for a violation
21 that occurs before the effective date of this Act is governed by the
22 law in effect on the date the violation occurred, and that law is
23 continued in effect for that purpose.

24 SECTION 8. This Act takes effect September 1, 2011.