

By: Estes

S.B. No. 298

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of the towing of a vehicle  
by its owner.

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

SECTION 1. Section 2308.002, Occupations Code, is amended  
to read as follows:

Sec. 2308.002. DEFINITIONS. In this chapter:

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

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

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

(1-c) "Boot operator" means an individual who installs  
or removes a boot on or from a vehicle.

(2) "Commission" means the Texas Commission of  
Licensing and Regulation.

(3) "Consent tow" means any tow of a motor vehicle in  
which the tow truck is summoned by the owner or operator of the  
vehicle or by a person who has possession, custody, or control of  
the vehicle. The term does not include an incident management tow or

1 a private property tow.

2 (4) "Department" means the Texas Department of  
3 Licensing and Regulation.

4 (5) "Driver's license" has the meaning assigned by  
5 Section 521.001, Transportation Code.

6 (5-a) "Incident management tow" means any tow of a  
7 vehicle in which the tow truck is summoned to the scene of a traffic  
8 accident or to an incident, including the removal of a vehicle,  
9 commercial cargo, and commercial debris from an accident or  
10 incident scene.

11 (6) "Nonconsent tow" means any tow of a motor vehicle  
12 that is not a consent tow, including:

13 (A) an incident management tow; and

14 (B) a private property tow.

15 (7) "Parking facility" means public or private  
16 property used, wholly or partly, for restricted or paid vehicle  
17 parking. The term includes:

18 (A) a restricted space on a portion of an  
19 otherwise unrestricted parking facility; and

20 (B) a commercial parking lot, a parking garage,  
21 and a parking area serving or adjacent to a business, church,  
22 school, home that charges a fee for parking, apartment complex,  
23 property governed by a property owners' association, or  
24 government-owned property leased to a private person, including:

25 (i) a portion of the right-of-way of a  
26 public roadway that is leased by a governmental entity to the  
27 parking facility owner; and

1 (ii) the area between the facility's  
2 property line abutting a county or municipal public roadway and the  
3 center line of the roadway's drainage way or the curb of the  
4 roadway, whichever is farther from the facility's property line.

5 (7-a) "Parking facility authorized agent" means an  
6 employee or agent of a parking facility owner with the authority to:

7 (A) authorize the removal of a vehicle from the  
8 parking facility on behalf of the parking facility owner; and

9 (B) accept service on behalf of the parking  
10 facility owner of a notice of hearing requested under this chapter.

11 (8) "Parking facility owner" means:

12 (A) an individual, corporation, partnership,  
13 limited partnership, limited liability company, association,  
14 trust, or other legal entity owning or operating a parking  
15 facility;

16 (B) a property owners' association having  
17 control under a dedicatory instrument, as that term is defined in  
18 Section 202.001, Property Code, over assigned or unassigned parking  
19 areas; or

20 (C) a property owner having an exclusive right  
21 under a dedicatory instrument, as that term is defined in Section  
22 202.001, Property Code, to use a parking space.

23 (8-a) "Private property tow" means any tow of a vehicle  
24 authorized by a parking facility owner without the consent of the  
25 owner or operator of the vehicle.

26 (9) "Property owners' association" has the meaning  
27 assigned by Section 202.001, Property Code.

1           (10) "Public roadway" means a public street, alley,  
2 road, right-of-way, or other public way, including paved and  
3 unpaved portions of the right-of-way.

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

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

9                   (B) a motor vehicle towing:

10                           (i) a race car;

11                           (ii) a motor vehicle for exhibition; or

12                           (iii) an antique motor vehicle;

13                   (C) a recreational vehicle towing another  
14 vehicle;

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

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

20 [~~or~~]

21                   (F) a motor vehicle that:

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

24                           (ii) only tows vehicles rented by the  
25 entity; or

26                   (G) a motor vehicle used to tow a vehicle  
27 belonging to the owner of the motor vehicle.

1           (12) "Towing company" means an individual,  
2 association, corporation, or other legal entity that controls,  
3 operates, or directs the operation of one or more tow trucks over a  
4 public roadway in this state but does not include a political  
5 subdivision of the state.

6           (13) "Unauthorized vehicle" means a vehicle parked,  
7 stored, or located on a parking facility without the consent of the  
8 parking facility owner.

9           (14) "Vehicle" means a device in, on, or by which a  
10 person or property may be transported on a public roadway. The term  
11 includes an operable or inoperable automobile, truck, motorcycle,  
12 recreational vehicle, or trailer but does not include a device  
13 moved by human power or used exclusively on a stationary rail or  
14 track.

15           (15) "Vehicle owner" means a person:

16                   (A) named as the purchaser or transferee in the  
17 certificate of title issued for the vehicle under Chapter 501,  
18 Transportation Code;

19                   (B) in whose name the vehicle is registered under  
20 Chapter 502, Transportation Code, or a member of the person's  
21 immediate family;

22                   (C) who holds the vehicle through a lease  
23 agreement;

24                   (D) who is an unrecorded lienholder entitled to  
25 possess the vehicle under the terms of a chattel mortgage; or

26                   (E) who is a lienholder holding an affidavit of  
27 repossession and entitled to repossess the vehicle.

1           (16) "Vehicle storage facility" means a vehicle  
2 storage facility, as defined by Section 2303.002, that is operated  
3 by a person who holds a license issued under Chapter 2303 to operate  
4 the facility.

5           SECTION 2. Section 2301.151, 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;
- 10          (2) operate a towing company;
- 11          (3) perform booting operations; or
- 12          (4) operate a booting company.

13 Nothing in this subchapter shall require a person towing a vehicle  
14 belonging to the person to obtain a license.

15           SECTION 3. This Act takes effect September 1, 2013.