

BILL ANALYSIS

C.S.H.B. 2508
By: Kuempel
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that state laws relating to the towing, booting, and storage of certain vehicles are disorganized, inconsistent, and overly prescriptive, particularly regarding specific business practices. The parties also note that a number of licenses exist that are neither necessary for public safety nor consumer protection. C.S.H.B. 2508 seeks to streamline and modernize the statutes relating to the regulation of the towing and booting of vehicles and vehicle storage facilities.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTIONS 1.05, 1.17, 1.18, and 1.33 of this bill.

ANALYSIS

C.S.H.B. 2508 repeals Occupations Code provisions, as regards the Vehicle Storage Facility Act and the Texas Towing and Booting Act, relating to requirements for a vehicle storage facility employee license, a dual license for a person who is a facility employee and a towing operator, a tow truck operator training license, a boot operator's license, and a booting company license. The bill repeals certain provisions of the Vehicle Storage Facility Act relating to risk-based inspections and the drug testing of vehicle storage facility employees. The bill repeals certain provisions of the Texas Towing and Booting Act relating to certain apartment lease or rental agreement provisions that conflict or are inconsistent with provisions relating to removal and storage of certain unattended vehicles on parking facility of apartment complex, the removal of certain abandoned vehicles in rural areas, a vehicle storage facility's duty to report after accepting an unauthorized vehicle, the payment of certain vehicle removal, storage, and booting costs, and certain notice and hearing requirements.

C.S.H.B. 2508 amends the Occupations Code to update and revise provisions of the Vehicle Storage Facility Act and the Texas Towing and Booting Act by reorganizing certain provisions of those acts within the Occupations Code, by redefining certain terms pertaining to those acts, and by clarifying certain language regarding the towing and storage of certain vehicles. The bill amends the Vehicle Storage Facility Act by changing certain notice and reporting requirements and provisions relating to form of payment. The bill amends the Texas Towing and Booting Act by changing requirements relating to certain information display and sign requirements; by renaming the Towing, Storage, and Booting Advisory Board as the Towing and Storage Advisory Board and adjusting board membership; by removing provisions relating to risk-based inspections; and by clarifying requirements for alcohol and drug testing policies for towing

operators.

C.S.H.B. 2508 revises the applicability of the Vehicle Storage Facility Act by making the act inapplicable to a vehicle stored at a vehicle storage facility with the consent of the vehicle owner or, unless the vehicle was towed from an incident management scene, a vehicle stored at a vehicle storage facility as a result of a consent tow. The bill specifies that the Vehicle Storage Facility Act and the Texas Towing and Booting Act do not control over a contract with a governmental entity to provide services for incident management towing unless specifically provided otherwise. The bill revises and reorganizes certain rulemaking provisions of the Vehicle Storage Facility Act by authorizing the executive director of the Texas Department of Licensing and Regulation (TDLR) or the Texas Commission of Licensing and Regulation, as appropriate, to take action necessary to administer and enforce the act, by requiring the commission to adopt rules for the denial of a license application based on specified factors, and by clarifying rules relating to the payment of fees. The bill removes certain eligibility requirements for a license under the Vehicle Storage Facility Act.

C.S.H.B. 2508 amends the Vehicle Storage Facility Act to require the commission, not later than September 1 of each even-numbered year, to review and by rule adjust as necessary as determined by the review the amount that a vehicle storage facility operator may charge the owner or operator of a vehicle stored at the facility as a notification, impoundment, or daily storage fee and removes the authority for an operator of a vehicle storage facility or a governmental vehicle storage facility to charge the owner of a vehicle stored or parked at the facility a fee for the remediation, recovery, or capture of an environmental or biological hazard. The bill provides for the electronic display of all storage fees at a licensed vehicle storage facility in view of a person claiming a vehicle as an alternative to those fees being posted, removes the requirement that a vehicle storage facility accepting a nonconsent towed vehicle post a sign containing a specified statement regarding nonconsent tow fees in one inch letters, instead requires such a sign comply with commission rules, and requires the commission to adopt rules for such a nonconsent tow fee sign. The bill establishes that, if certain abandoned vehicles are not claimed by a person entitled to claim the vehicle within a specified period, the owner or any lienholder waives all rights and interests in the vehicle and consents to the sale of the vehicle at a public sale. The bill includes among the charges incurred for an abandoned vehicle disposed of at a public sale to which the proceeds from the sale must be applied any fees authorized for nonconsent tows and the cost of the public sale. The bill establishes that the purchaser of such an abandoned vehicle takes title to the vehicle free and clear of all liens and claims of ownership, must receive an auction sales receipt from the vehicle storage facility, and is entitled to register the vehicle and receive a certificate of title under the Certificate of Title Act or Water Safety Act, as applicable.

C.S.H.B. 2508 revises Vehicle Storage Facility Act provisions relating to the release of vehicles by requiring a vehicle storage facility to release a vehicle to an owner of the vehicle who presents certain identification and proof of ownership or right of possession or control of the vehicle and who pays the fees and charges for services regulated under the Vehicle Storage Facility Act and the Texas Towing and Booting Act. The bill authorizes a vehicle storage facility to require other documentation as required by a municipal ordinance, law enforcement agency, or governmental agency under which the tow was authorized. The bill limits the authorization for a vehicle storage facility to accept towed vehicles to vehicles from licensed towing operators and sets out the conditions under which a vehicle storage facility is required to release a vehicle to a towing operator.

C.S.H.B. 2508 requires a vehicle storage facility, at the time an owner or operator of a vehicle pays the costs of the vehicle's towing, storage, and recovery, to give the owner or operator written notice of the person's rights under the Vehicle Storage Facility Act and the Texas Towing and Booting Act unless a hearing regarding the vehicle's storage and towing has been held. The bill requires the operator of a vehicle storage facility that sends a notice under provisions regarding practice by a license holder under the Vehicle Storage Facility Act to include with

such notice a notice of the person's rights under that act and the Texas Towing and Booting Act. The bill makes a vehicle storage facility that fails to furnish to the owner or operator of the vehicle at the time of payment the name, address, and telephone number of the parking facility owner or law enforcement agency that authorized the towing of the vehicle liable for the costs of the vehicle's storage if a court after a hearing does not find probable cause for the towing and storage of the vehicle. The bill prescribes the notice's contents and establishes that a hearing referenced in the notice is governed by provisions relating to the rights of owners and operators of stored or booted vehicles under the Texas Towing and Booting Act.

C.S.H.B. 2508 amends the Texas Towing and Booting Act to provide requirements for an incident management towing permit, an incident management towing operator's license, a private property towing permit, a private property towing operator's license, a consent towing permit, and a consent towing operator's license in the same manner as provided in provisions of that act repealed by the bill regarding those permits and licenses. The bill provides for continuing education programs for license holders under that act, including by requiring the commission to by rule recognize, prepare, or administer such programs.

C.S.H.B. 2508 transfers from the executive director of TDLR to the commission rulemaking authority regarding the adoption of an alternative method to the cab card system for enforcing permit requirements under the Texas Towing and Booting Act. The bill authorizes the commission, if the holder of a towing company license issued under that act dies or is disabled, to transfer the license to a member of the license holder's family in a certain manner. The bill removes the authorizations for a municipality to adopt an ordinance that is identical to the booting provisions of the Texas Towing and Booting Act and that imposes certain additional requirements exceeding but not conflicting with those provisions' minimum standards, to regulate the fees that may be charged in connection with the booting of a vehicle, and to require a booting company to obtain a permit to operate in the municipality. The bill instead authorizes a local authority to regulate booting activities in areas in which the entity regulates parking or traffic and prescribes requirements for such regulations. The bill requires a booting company responsible for the installation of a boot on a vehicle to remove the boot not later than one hour after the time the owner or operator of the vehicle contacts the company to request removal of the boot and requires the company to waive the amount of the fee for removal of a boot, excluding any associated parking fees, if the company fails to have the boot removed within that prescribed time.

C.S.H.B. 2508 clarifies certain provisions relating to a hearing under the Texas Towing and Booting Act, limits the issues on which a court may make a determination in such a hearing, sets out provisions relating to a determination as to whether probable cause for the towing of a vehicle existed, revises the authority of a court to award certain amounts under that act, requires any issue of fact or law to be submitted to and determined by the court in such a hearing under that act, and prohibits a court on appeal from considering an issue or claim that was not presented or from awarding damages or relief that was not requested in justice court. The bill requires the person who requested the hearing, if the court finds that a person or law enforcement agency authorized, with probable cause, the towing and storage of a vehicle, to pay the costs of the towing and storage. The bill requires the towing company, vehicle storage facility, parking facility owner, or law enforcement agency that authorized a tow for which a court after a hearing does not make such a finding of probable cause to pay the costs of the towing and storage or reimburse the owner or operator for the cost of the towing and storage paid by the owner or operator. The bill requires a towing company or vehicle storage facility, as applicable, if the court finds after a hearing that the amount of the towing or storage charge collected was not authorized under provisions of the Texas Towing and Booting Act relating to fees for nonconsent tows or under the Vehicle Storage Facility Act, to reimburse the owner or operator of the vehicle an amount equal to the amount of the overcharge for towing or storage regardless of whether the court finds that there was probable cause for the towing and storage of the vehicle. The bill establishes that the party requesting the hearing waives the right to an appeal under the Texas Towing and Booting Act if the party does not participate in the hearing.

C.S.H.B. 2508 amends the Transportation Code to include the owner or operator of a vehicle storage facility in the definition of "garagekeeper" for purposes of provisions relating to abandoned motor vehicles and to establish that, to the extent of any conflict between those statutory provisions and certain provisions of the Vehicle Storage Facility Act, the Vehicle Storage Facility Act provisions control for a vehicle stored in a vehicle storage facility.

C.S.H.B. 2508 establishes that on the bill's effective date the following licenses or permits issued under the Vehicle Storage Facility Act and Texas Towing and Booting Act, as applicable, expire: a vehicle storage facility employee license; a dual license for a person who is a facility employee and a towing operator; a tow truck operator training license; a boot operator's license; and a booting company license. The bill's provisions regarding the qualifications for a member of the Towing and Storage Advisory Board expressly do not affect the entitlement of a member serving on the board immediately before the bill's effective date to continue to serve and function as a member of the board for the remainder of the member's term. The bill requires the presiding officer of the commission to appoint new members to the board in a manner that reflects the bill's provisions when board vacancies occur on or after the bill's effective date. The bill's provisions relating to a towing company's or boot operator's authority to remove and store or boot an unauthorized vehicle expressly do not apply to the booting of a vehicle under a standing written agreement between a booting company and a parking facility owner entered into before the bill's effective date.

C.S.H.B. 2508 repeals the following provisions of the Occupations Code:

- Sections 2303.056(c) and (d)
- Sections 2303.1015 and 2303.1016
- Section 2303.161
- Section 2308.002 (7-a)
- Sections 2308.103, 2308.104, and 2308.105
- Sections 2308.1521, 2308.153, 2308.154, 2308.155, 2308.1551, 2308.1555, and 2308.1556
- Section 2308.253(g)
- Sections 2308.2555 and 2308.2565
- Section 2308.451
- Sections 2308.454 and 2308.455
- Sections 2308.458(b-2) and (c-1)

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2508 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

	INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
ARTICLE 1.	LICENSING AND	Same as introduced version.

REGULATION OF TOWING, BOOTING,
AND VEHICLE STORAGE

SECTION 1.01. Section 2303.002, Occupations Code, is amended by amending Subdivisions (1), (5), (7), and (8) and adding Subdivision (4-a) to read as follows:

(1) "Abandoned nuisance vehicle" means a motor vehicle that is[=

~~[(A) at least 10 years old; and~~

~~[(B)] of a condition only to be crushed [demolished, wrecked,] or dismantled.~~

(4-a) "Incident management scene" means the location on a public or private roadway or right-of-way of a traffic accident or incident requiring services, equipment, repair, or cleanup to return the location to its intended use.

(5) "Owner of a vehicle" means a person:

(A) named as the purchaser or transferee in the certificate of title issued for the vehicle under Chapter 501, Transportation Code, or Chapter 31, Parks and Wildlife Code, as applicable;

(B) in whose name the vehicle is titled [registered] under Chapter 501 [502], Transportation Code, or Chapter 31, Parks and Wildlife Code, as applicable, or a member of the person's immediate family;

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

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

(E) who is a lienholder, holds an affidavit of repossession, and is entitled to repossess the vehicle.

(7) "Vehicle" means:

(A) a motor vehicle, semitrailer, or trailer, as defined by Section 501.002, Transportation Code [for which the issuance of a certificate of title is required under Chapter 501, Transportation Code]; or

(B) a vessel, as defined by Section 31.003, Parks and Wildlife Code [any other device designed to be self-propelled or transported on a public highway].

(8) "Vehicle storage facility" means a garage, parking lot, or other facility that is:

(A) owned by a person other than a governmental entity; and

(B) used to store ~~[or park]~~ at least 10 vehicles each year.

SECTION 1.02. Section 2303.003(a),

SECTION 1.01. Section 2303.002, Occupations Code, is amended by amending Subdivisions (1), (5), and (8) and adding Subdivision (4-a) to read as follows:

(1) "Abandoned nuisance vehicle" means a motor vehicle that is[=

~~[(A) at least 10 years old; and~~

~~[(B)] of a condition only to be crushed [demolished, wrecked,] or dismantled.~~

(4-a) "Incident management scene" means the location on a public or private roadway or right-of-way of a traffic accident or incident requiring services, equipment, repair, or cleanup to return the location to its intended use.

(5) "Owner of a vehicle" means a person:

(A) named as the purchaser or transferee in the certificate of title issued for the vehicle under Chapter 501, Transportation Code, or Chapter 31, Parks and Wildlife Code, as applicable;

(B) in whose name the vehicle is titled [registered] under Chapter 501 [502], Transportation Code, or Chapter 31, Parks and Wildlife Code, as applicable, or a member of the person's immediate family;

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

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

(E) who is a lienholder, holds an affidavit of repossession, and is entitled to repossess the vehicle.

(7) "Vehicle" means:

(A) a motor vehicle, semitrailer, or trailer, as defined by Section 501.002, Transportation Code [for which the issuance of a certificate of title is required under Chapter 501, Transportation Code]; or

(B) a vessel, as defined by Section 31.003, Parks and Wildlife Code [any other device designed to be self-propelled or transported on a public highway].

(8) "Vehicle storage facility" means a garage, parking lot, or other facility that is:

(A) owned by a person other than a governmental entity; and

(B) used to store ~~[or park]~~ at least 10 vehicles each year.

SECTION 1.02. Section 2303.003(a),

Occupations Code, is amended to read as follows:

(a) This chapter does not apply to a vehicle stored ~~[or parked]~~ at a vehicle storage facility as a result of a [with the] consent tow, as defined by Section 2308.002, unless the vehicle was towed from an incident management scene [of the owner of the vehicle].

SECTION 1.03. Subchapter A, Chapter 2303, Occupations Code, is amended by adding Section 2303.004 to read as follows:

Sec. 2303.004. MUNICIPAL LAW OR GOVERNMENTAL CONTRACT CONTROLS.

Unless specifically provided otherwise, this chapter does not control over:

- (1) a municipal ordinance or charter; or
- (2) a contract with a governmental entity to provide services for incident management towing, as defined by Section 2308.002.

SECTION 1.04. Section 2303.051, Occupations Code, is amended.

SECTION 1.05. Subchapter B, Chapter 2303, Occupations Code, is amended.

SECTION 1.06. The heading to Section 2303.053, Occupations Code, is amended.

SECTION 1.07. Section 2303.053(a), Occupations Code, is amended.

SECTION 1.08. The heading to Section 2303.056, Occupations Code, is amended.

SECTION 1.09. Section 2303.058, Occupations Code, is amended.

SECTION 1.10. Section 2303.103, Occupations Code, is amended to read as follows:

Sec. 2303.103. ELIGIBILITY. The department shall approve an application submitted as provided by Section 2303.102 unless ~~[the department determines that]:~~

- ~~(1) [the applicant knowingly supplied false or incomplete information on the application;~~
- ~~[(2) in the three years preceding the date of application, the applicant, a partner,~~

Occupations Code, is amended to read as follows:

(a) This chapter does not apply to:

(1) a vehicle stored [or parked] at a vehicle storage facility with the consent of the owner of the vehicle; or

(2) unless the vehicle was towed from an incident management scene, a vehicle stored at a vehicle storage facility as a result of a consent tow, as defined by Section 2308.002.

SECTION 1.03. Subchapter A, Chapter 2303, Occupations Code, is amended by adding Section 2303.004 to read as follows:

Sec. 2303.004. GOVERNMENTAL CONTRACT CONTROLS.

Unless specifically provided otherwise, this chapter does not control over a contract with a governmental entity to provide services for incident management towing, as defined by Section 2308.002.

SECTION 1.04. Same as introduced version.

SECTION 1.05. Same as introduced version.

SECTION 1.06. Same as introduced version.

SECTION 1.07. Same as introduced version.

SECTION 1.08. Same as introduced version.

SECTION 1.09. Same as introduced version.

SECTION 1.10. Section 2303.103, Occupations Code, is amended to read as follows:

Sec. 2303.103. ELIGIBILITY. The department shall approve an application submitted as provided by Section 2303.102 unless ~~[the department determines that:~~

- ~~[(1) the applicant knowingly supplied false or incomplete information on the application;~~
- ~~[(2) in the three years preceding the date of application, the applicant, a partner,~~

~~principal, or officer of the applicant, or the general manager of the applicant, was convicted of:~~

~~[(A) a felony; or~~

~~[(B) a misdemeanor punishable by confinement in jail or by a fine exceeding \$500; or~~

~~[(3) the vehicle storage facility for which the license is sought does not meet the standards for storage facilities established by commission rules; or~~

(2) the rules adopted under Section 2303.0511(b) require that the application be denied.

SECTION 1.11. Section 2303.104(b), Occupations Code, is amended.

SECTION 1.12. Sections 2303.151(a), (d), and (e), Occupations Code, are amended to read as follows:

(a) The operator of a vehicle storage facility who receives a vehicle that is registered in this state and that is towed to the facility for storage shall send a written notice to the registered owner and each ~~[the primary]~~ lienholder of the vehicle not later than the fifth day after the date but not earlier than 24 hours after the date the operator receives the vehicle.

(d) A notice under this section must:

- (1) be correctly addressed;
- (2) be sent with ~~[carry]~~ sufficient postage attached or paid; and
- (3) be sent:
 - (A) by certified mail, return receipt requested; or
 - (B) by electronic certified mail, electronic return receipt with electronic delivery confirmation requested.

(e) A notice under this section is considered to have been:

- (1) given on:
 - (A) the date indicated on the postmark; or
 - (B) the electronic filing date acknowledged by an electronic audit trail by the United States Postal Service or its agent; and
- (2) ~~[to be]~~ timely filed if:
 - (A) ~~[(1)]~~ the postmark or electronic filing date indicates that the notice was mailed

~~principal, or officer of the applicant, or the general manager of the applicant, was convicted of:~~

~~[(A) a felony; or~~

~~[(B) a misdemeanor punishable by confinement in jail or by a fine exceeding \$500; or~~

~~[(3) the vehicle storage facility for which the license is sought does not meet the standards for storage facilities established by commission rules.~~

SECTION 1.11. Same as introduced version.

SECTION 1.12. Sections 2303.151(a), (d), and (e), Occupations Code, are amended to read as follows:

(a) The operator of a vehicle storage facility who receives a vehicle that is registered in this state and that is towed to the facility for storage shall send a written notice to the registered owner and each ~~[the primary]~~ lienholder of the vehicle not later than the fifth day after the date but not earlier than 24 hours after the date the operator receives the vehicle. If the operator of a vehicle storage facility sends the notice outside of the time period described by this subsection or Subsection (b), the ability of the operator to seek foreclosure of a lien on the vehicle for storage charges is not affected.

(d) A notice under this section must:

- (1) be correctly addressed;
- (2) be sent with ~~[carry]~~ sufficient postage attached or paid; and
- (3) be sent:
 - (A) by certified mail, return receipt requested; or
 - (B) by electronic certified mail, electronic return receipt with electronic delivery confirmation requested.

(e) A notice under this section is considered to have been:

- (1) given on:
 - (A) the date indicated on the postmark; or
 - (B) the electronic filing date acknowledged by an electronic audit trail by the United States Postal Service or its agent; and
- (2) ~~[to be]~~ timely filed if:
 - (A) ~~[(1)]~~ the postmark or electronic filing date indicates that the notice was mailed

within the period described by Subsection (a) or (b), as applicable; or
(B) [(2)] the notice was published as provided by Section 2303.152.

SECTION 1.13. Section 2303.1511(a), Occupations Code, is amended.

SECTION 1.14. Sections 2303.152(a), (b), and (e), Occupations Code, are amended to read as follows:

(a) Notice to the registered owner and each ~~[the primary]~~ lienholder of a vehicle towed to a vehicle storage facility may be provided by publication in a newspaper of general circulation in the county in which the vehicle is stored or on the Internet website of a newspaper of general circulation in the county in which the vehicle is stored if:

- (1) the vehicle is registered in another state;
- (2) the operator of the storage facility submits to the governmental entity with which the vehicle is registered a written request, including an electronic request, for information relating to the identity of the registered owner and each ~~[any]~~ lienholder of record;
- (3) the identity of the registered owner cannot be determined;
- (4) the registration does not contain an address for the registered owner; or
- (5) the operator of the storage facility cannot reasonably determine the identity and address of each recorded lienholder.

(b) The written or electronic request must:

- (1) be correctly addressed;
- (2) be sent with ~~[carry]~~ sufficient postage attached or paid; and
- (3) be sent:

(A) by certified mail, return receipt requested; or

(B) by electronic certified mail, electronic return receipt with electronic delivery confirmation requested.

(e) Notice to the registered owner and each recorded ~~[the primary]~~ lienholder of a vehicle towed to a vehicle storage facility may be provided by publication in a newspaper of general circulation in the county in which the vehicle is stored or on the Internet website of a newspaper of general circulation in the county in which the vehicle is stored if:

- (1) the vehicle does not display a license plate or a vehicle inspection certificate

within the period described by Subsection (a) or (b), as applicable; or
(B) [(2)] the notice was published as provided by Section 2303.152.

SECTION 1.13. Same as introduced version.

SECTION 1.14. Sections 2303.152(a), (b), and (e), Occupations Code, are amended to read as follows:

(a) Notice to the registered owner and each recorded ~~[the primary]~~ lienholder of a vehicle towed to a vehicle storage facility may be provided by publication in a newspaper of general circulation in the county in which the vehicle is stored if:

- (1) the vehicle is registered in another state;
- (2) the operator of the storage facility submits to the governmental entity with which the vehicle is registered a written request, including an electronic request, for information relating to the identity of the registered owner and each recorded ~~[any]~~ lienholder ~~[of record]~~;
- (3) the identity of the registered owner cannot be determined;
- (4) the registration does not contain an address for the registered owner; or
- (5) the operator of the storage facility cannot reasonably determine the identity and address of each recorded lienholder.

(b) The written or electronic request must:

- (1) be correctly addressed;
- (2) be sent with ~~[carry]~~ sufficient postage attached or paid; and
- (3) be sent:

(A) by certified mail, return receipt requested; or

(B) by electronic certified mail, electronic return receipt with electronic delivery confirmation requested.

(e) Notice to the registered owner and each recorded ~~[the primary]~~ lienholder of a vehicle towed to a vehicle storage facility may be provided by publication in a newspaper of general circulation in the county in which the vehicle is stored if:

- (1) the vehicle does not display a license plate or a vehicle inspection certificate

- indicating the state of registration;
- (2) the identity of the registered owner cannot reasonably be determined by the operator of the storage facility; or
 - (3) the operator of the storage facility cannot reasonably determine the identity and address of each recorded lienholder.

SECTION 1.15. Section 2303.154, Occupations Code, is amended to read as follows:

Sec. 2303.154. SECOND NOTICE; CONSENT TO SALE. (a) ~~[If a vehicle is not claimed by a person permitted to claim the vehicle or a law enforcement agency has not taken an action in response to a notice under Section 683.031(e), Transportation Code, before the 15th day after the date notice is mailed or published under Section 2303.151 or 2303.152, the operator of the vehicle storage facility shall send a second notice to the registered owner and the primary lienholder of the vehicle.~~

~~[(a-1)]~~ If a vehicle is not claimed by a person permitted to claim the vehicle before the 10th day after the date notice is mailed or published under Section 2303.151 or 2303.152, the operator of the vehicle storage facility shall consider the vehicle to be abandoned and report the [send notice of] abandonment to a law enforcement agency with jurisdiction where the vehicle is located. If the law enforcement agency notifies the vehicle storage facility that the agency will send notices and dispose of abandoned vehicles under Subchapter B, Chapter 683, Transportation Code, the vehicle storage facility shall pay the fee required under Section 683.031, Transportation Code.

(b) Not earlier than the 14th day after the date notice is mailed or published under Section 2303.151 or 2303.152, the operator of a vehicle storage facility shall send a second notice to the registered owner and each recorded lienholder of the vehicle if the facility has made a report under Subsection (a) and the law enforcement agency:

(1) has notified the facility that the law enforcement agency will not take custody of

- indicating the state of registration;
- (2) the identity of the registered owner cannot reasonably be determined by the operator of the storage facility; or
 - (3) the operator of the storage facility cannot reasonably determine the identity and address of each recorded lienholder.

SECTION 1.15. Section 2303.154, Occupations Code, is amended to read as follows:

Sec. 2303.154. SECOND NOTICE; CONSENT TO SALE. (a) ~~[If a vehicle is not claimed by a person permitted to claim the vehicle or a law enforcement agency has not taken an action in response to a notice under Section 683.031(e), Transportation Code, before the 15th day after the date notice is mailed or published under Section 2303.151 or 2303.152, the operator of the vehicle storage facility shall send a second notice to the registered owner and the primary lienholder of the vehicle.~~

~~[(a-1)]~~ If a vehicle is not claimed by a person permitted to claim the vehicle before the 10th day after the date notice is mailed or published under Section 2303.151 or 2303.152, the operator of the vehicle storage facility shall consider the vehicle to be abandoned and, if required by the law enforcement agency with jurisdiction where the vehicle is located, report the [send notice of] abandonment to the [a] law enforcement agency. If the law enforcement agency notifies the vehicle storage facility that the agency will send notices and dispose of abandoned vehicles under Subchapter B, Chapter 683, Transportation Code, the vehicle storage facility shall pay the fee required under Section 683.031, Transportation Code.

(b) Not earlier than the 15th day after the date notice is mailed or published under Section 2303.151 or 2303.152, the operator of a vehicle storage facility shall send a second notice to the registered owner and each recorded lienholder of the vehicle if the facility:

(1) was not required to make a report under Subsection (a); or

(2) has made a required report under Subsection (a) and the law enforcement agency:

(A) has notified the facility that the law enforcement agency will not take custody of

the vehicle;

- (2) has not taken custody of the vehicle; or
- (3) has not responded to the report.

(c) Notice under this section must be sent by certified mail, return receipt requested, or electronic certified mail, electronic return receipt with electronic delivery confirmation requested, and include:

- (1) the information listed in Section 2303.153(a);
- (2) a statement of the right of the facility to dispose of the vehicle under Section 2303.157; and
- (3) a statement that the failure of the owner or lienholder to claim the vehicle before the 30th day after the date the notice is provided is:

(A) a waiver by that person of all right, title, or interest in the vehicle; and

(B) a consent to the sale of the vehicle at a public sale.

(d) [(e)] Notwithstanding Subsection (c) [(b)], if publication is required for notice under this section, the notice must include:

- (1) the information listed in Section 2303.153(b); and

(2) a statement that the failure of the owner or recorded lienholder to claim the vehicle before the date of sale is:

(A) a waiver of all right, title, and interest in the vehicle; and

(B) a consent to the sale of the vehicle at a public sale.

SECTION 1.16. Section 2303.1545(b), Occupations Code, is amended to read as follows:

(b) The facility may:

(1) notify the Texas Department of Motor Vehicles [~~department~~] that notices under Chapter 683, Transportation Code, have been provided and shall pay a fee of \$10 to the Texas Department of Motor Vehicles [~~department~~]; or

(2) in the alternative, notify the appropriate law enforcement agency and pay a fee of \$10 to that agency if required by the agency.

SECTION 1.17. Section 2303.155, Occupations Code, is amended by amending Subsection (a) and adding Subsections (h)

the vehicle;

- (B) has not taken custody of the vehicle; or
- (C) has not responded to the report.

(c) Notice under this section must be sent by certified mail, return receipt requested, or electronic certified mail, electronic return receipt with electronic delivery confirmation requested, and include:

- (1) the information listed in Section 2303.153(a);

(2) a statement of the right of the facility to dispose of the vehicle under Section 2303.157; and

(3) a statement that the failure of the owner or lienholder to claim the vehicle before the 30th day after the date the notice is provided is:

(A) a waiver by that person of all right, title, or interest in the vehicle; and

(B) a consent to the sale of the vehicle at a public sale.

(d) [(e)] Notwithstanding Subsection (c) [(b)], if publication is required for notice under this section, the notice must include:

- (1) the information listed in Section 2303.153(b); and

(2) a statement that the failure of the owner or lienholder to claim the vehicle before the date of sale is:

(A) a waiver of all right, title, and interest in the vehicle; and

(B) a consent to the sale of the vehicle at a public sale.

SECTION 1.16. Sections 2303.1545(b) and (c), Occupations Code, are amended to read as follows:

(b) The facility shall, if required by the agency, [~~may~~]:

~~[(1) notify the department that notices under Chapter 683, Transportation Code, have been provided and shall pay a fee of \$10 to the department; or~~

~~[(2) in the alternative,]~~ notify the appropriate law enforcement agency and pay a fee of \$10 to that agency.

(c) A law enforcement agency described by Subsection (b) [~~(b)(2)~~] may sign a document issued by the department.

SECTION 1.17. Section 2303.155, Occupations Code, is amended by amending Subsections (a), (b), and (c) and adding

and (i) to read as follows:

(a) For the purposes of this section, "governmental vehicle storage facility" means a garage, parking lot, or other facility that is:

(1) ~~[(A)]~~ owned by a governmental entity; and

(2) ~~[(B)]~~ used to store or park at least 10 vehicles each year.

Subsection (h) to read as follows:

(a) For the purposes of this section, "governmental vehicle storage facility" means a garage, parking lot, or other facility that is:

(1) ~~[(A)]~~ owned by a governmental entity; and

(2) ~~[(B)]~~ used to store or park at least 10 vehicles each year.

(b) The operator of a vehicle storage facility or governmental vehicle storage facility may charge the owner of a vehicle stored or parked at the facility:

(1) a notification fee set in a reasonable amount for providing notice under this subchapter, including notice under Section 2303.154(d) ~~[2303.154(e)]~~;

(2) an impoundment fee of \$20, subject to Subsection (h), for any action that:

(A) is taken by or at the direction of the owner or operator of the facility; and

(B) is necessary to preserve, protect, or service a vehicle stored or parked at the facility;

(3) a daily storage fee, subject to Subsection (h), of:

(A) not less than \$5 and not more than \$20 for each day or part of a day the vehicle is stored at the facility if the vehicle is not longer than 25 feet; or

(B) \$35 for each day or part of a day the vehicle is stored at the facility if the vehicle is longer than 25 feet; and

(4) any fee that is required to be submitted to a law enforcement agency, the agency's authorized agent, or a governmental entity; and

~~[(5) a fee in an amount set by the commission for the remediation, recovery, or capture of an environmental or biological hazard].~~

(c) Subject to Subsection (h), a [A] notification fee under Subsection (b) may not exceed \$50, except that if notice by publication is required by this chapter and the cost of publication exceeds 50 percent of the notification fee, the vehicle storage facility may recover the additional amount of the cost of publication from the vehicle owner or agent.

(h) Not later than September 1 of each even-numbered year, the commission shall review and by rule adjust as necessary as determined by the review the amount that a vehicle storage facility operator may charge

the owner or operator of a vehicle stored at the facility:
(1) as a notification fee under Subsection (b)(1);
(2) as an impoundment fee under Subsection (b)(2); and
(3) as a daily storage fee under Subsection (b)(3).

(h) The commission shall biennially:
(1) adjust fees under this section according to the percentage increase or decrease, if any, in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) published by the Bureau of Labor Statistics of the United States Department of Labor;
(2) notify vehicle storage facilities licensed under this chapter of the adjustment; and
(3) allow a reasonable period for implementation of the adjustment.
(i) If a fee is decreased under Subsection (h), the operator of a vehicle storage facility or governmental vehicle storage facility shall begin charging the new fee amount on the effective date of the decrease. If a fee is increased, the operator may begin charging the new amount at any time on or after the effective date of the increase.

SECTION 1.18. Section 2303.1551, Occupations Code, is amended to read as follows:

Sec. 2303.1551. REQUIRED POSTING OR DISPLAY. (a) All storage fees shall be posted or electronically displayed at the licensed vehicle storage facility [~~to which the motor vehicle has been delivered and shall be posted~~] in view of a a [the] person claiming a [who claims the] vehicle.

(b) A vehicle storage facility accepting a nonconsent towed vehicle shall post or electronically display a sign in [~~one inch~~] letters at least one inch high at the time of installation stating "Nonconsent tow fees schedules available on request." The vehicle storage facility shall provide a copy of a nonconsent towing fees schedule on request.

SECTION 1.19. Section 2303.157, Occupations Code, is amended by amending Subsections (a) and (b) and adding

SECTION 1.18. Section 2303.1551, Occupations Code, is amended to read as follows:

Sec. 2303.1551. REQUIRED POSTING OR DISPLAY. (a) All storage fees shall be posted or electronically displayed at the licensed vehicle storage facility [~~to which the motor vehicle has been delivered and shall be posted~~] in view of a a [the] person claiming a [who claims the] vehicle.

(b) A vehicle storage facility accepting a nonconsent towed vehicle shall post a sign that complies with commission rules and states [in one inch letters stating] "Nonconsent tow fees schedules available on request." The vehicle storage facility shall provide a copy of a nonconsent towing fees schedule on request. The commission shall adopt rules for signs required under this subsection.

SECTION 1.19. Section 2303.157, Occupations Code, is amended by amending Subsections (a) and (b) and adding

Subsections (a-1) and (b-1) to read as follows:

(a) The operator of a vehicle storage facility may dispose of a vehicle for which the second notice is given under Section 2303.154(b) or (d) [2303.154] if, before the 30th day after the date notice is mailed or published, the vehicle is not:

- (1) claimed by a person entitled to claim the vehicle; or
- (2) taken into custody by a law enforcement agency under Chapter 683, Transportation Code.

(a-1) If the vehicle is not claimed by a person entitled to claim the vehicle within the period described by Subsection (a), the owner or any recorded lienholder:

- (1) waives all rights and interests in the vehicle; and
- (2) consents to the sale of the vehicle at a public sale.

(b) An operator entitled to dispose of a vehicle under this section may sell the vehicle at a public sale without obtaining a release or discharge of any lien on the vehicle, regardless of whether notice was provided by mail or by publication under this chapter. The proceeds from the sale of the vehicle shall be applied to the charges incurred for the vehicle under Section 2303.155 and the cost of the public sale. The operator shall pay any excess proceeds to the person entitled to those proceeds.

(b-1) The purchaser of an abandoned vehicle under this section:

- (1) takes title to the vehicle free and clear of all liens and claims of ownership;
- (2) shall receive an auction sales receipt from the vehicle storage facility; and
- (3) is entitled to register the vehicle and receive a certificate of title under Chapter 501, Transportation Code, or Chapter 31, Parks and Wildlife Code, as applicable.

SECTION 1.20. Sections 2303.159(a) and (a-1), Occupations Code, are amended.

SECTION 1.21. The heading to Section 2303.160, Occupations Code, is amended to read as follows:

Sec. 2303.160. RELEASE OF VEHICLES TO VEHICLE OWNER.

Subsections (a-1) and (b-1) to read as follows:

(a) The operator of a vehicle storage facility may dispose of a vehicle for which the second notice is given under Section 2303.154(b) or (d) [2303.154] if, before the 30th day after the date notice is mailed or published, the vehicle is not:

- (1) claimed by a person entitled to claim the vehicle; or
- (2) taken into custody by a law enforcement agency under Chapter 683, Transportation Code.

(a-1) If the vehicle is not claimed by a person entitled to claim the vehicle within the period described by Subsection (a), the owner or any lienholder:

- (1) waives all rights and interests in the vehicle; and
- (2) consents to the sale of the vehicle at a public sale.

(b) An operator entitled to dispose of a vehicle under this section may sell the vehicle at a public sale without obtaining a release or discharge of any lien on the vehicle, regardless of whether notice was provided by mail or by publication under this chapter. The proceeds from the sale of the vehicle shall be applied to the charges incurred for the vehicle under Section 2303.155, any fee authorized under Section 2308.2065, and the cost of the public sale. The operator shall pay any excess proceeds to the person entitled to those proceeds.

(b-1) The purchaser of an abandoned vehicle under this section:

- (1) takes title to the vehicle free and clear of all liens and claims of ownership;
- (2) shall receive an auction sales receipt from the vehicle storage facility; and
- (3) is entitled to register the vehicle and receive a certificate of title under Chapter 501, Transportation Code, or Chapter 31, Parks and Wildlife Code, as applicable.

SECTION 1.20. Same as introduced version.

SECTION 1.21. The heading to Section 2303.160, Occupations Code, is amended to read as follows:

Sec. 2303.160. RELEASE OF VEHICLE TO VEHICLE OWNER OR OPERATOR [VEHICLES].

SECTION 1.22. Sections 2303.160(b) and (c), Occupations Code, are amended.

SECTION 1.23. Subchapter D, Chapter 2303, Occupations Code, is amended by adding Section 2303.1601 to read as follows:

Sec. 2303.1601. ACCEPTANCE OF VEHICLES FROM AND RELEASE OF VEHICLES TO LICENSED TOWING OPERATORS. (a) A vehicle storage facility may accept towed vehicles only from licensed towing operators.

(b) A vehicle storage facility is required to release a vehicle to a towing operator only if:

(1) the towing operator:

(A) is licensed under Chapter 2308; and

(B) has the vehicle owner's written consent to the release of the vehicle, which may be in the form of an e-mail from the owner; and

(2) the release occurs between 8 a.m. and 6 p.m. on a weekday.

SECTION 1.24. Chapter 2303, Occupations Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. RIGHTS OF OWNERS AND OPERATORS OF STORED VEHICLES

Sec. 2303.201. NOTICE TO VEHICLE OWNER OR OPERATOR. (a) At the time an owner or operator of a vehicle pays the costs of the vehicle's towing, storage, and recovery, the vehicle storage facility that received the payment shall, unless a hearing regarding the vehicle's storage and towing has been held under Subchapter J, Chapter 2308, give the owner or operator written notice of the person's rights under this chapter, Chapter 2308 of this code, and Chapter 401, Property Code.

(b) The operator of a vehicle storage facility that sends a notice under Subchapter D shall include with that notice a notice of the person's rights under this chapter, Chapter 2308 of this code, and Chapter 401, Property Code.

(c) A vehicle storage facility that fails to furnish to the owner or operator of the vehicle at the time of payment the name, address, and telephone number of the parking facility owner or law enforcement agency that authorized the towing of the vehicle is liable for the costs of the vehicle's

SECTION 1.22. Same as introduced version.

SECTION 1.23. Subchapter D, Chapter 2303, Occupations Code, is amended by adding Section 2303.1601 to read as follows:

Sec. 2303.1601. ACCEPTANCE OF VEHICLES FROM AND RELEASE OF VEHICLES TO LICENSED TOWING OPERATORS. (a) A vehicle storage facility may accept towed vehicles only from licensed towing operators.

(b) A vehicle storage facility is required to release a vehicle to a towing operator only if:

(1) the towing operator

is licensed under Chapter 2308; and

(2) the release occurs between 8 a.m. and 6 p.m. on a weekday.

SECTION 1.24. Chapter 2303, Occupations Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. RIGHTS OF OWNERS AND OPERATORS OF STORED VEHICLES

Sec. 2303.201. NOTICE TO VEHICLE OWNER OR OPERATOR. (a) At the time an owner or operator of a vehicle pays the costs of the vehicle's towing, storage, and recovery, the vehicle storage facility that received the payment shall, unless a hearing regarding the vehicle's storage and towing has been held under Subchapter J, Chapter 2308, give the owner or operator written notice of the person's rights under this chapter and Chapter 2308.

(b) The operator of a vehicle storage facility that sends a notice under Subchapter D shall include with that notice a notice of the person's rights under this chapter and Chapter 2308.

(c) A vehicle storage facility that fails to furnish to the owner or operator of the vehicle at the time of payment the name, address, and telephone number of the parking facility owner or law enforcement agency that authorized the towing of the vehicle is liable for the costs of the vehicle's

storage if the court, after a hearing, does not find probable cause for the towing and storage of the vehicle.

Sec. 2303.202. CONTENTS OF NOTICE.

Sec. 2303.203. HEARING.

SECTION 1.25. Section 2303.302(a), Occupations Code, is amended.

SECTION 1.26. Sections 2308.002(1), (7), (8), (13), (14), (15), and (16), Occupations Code, are amended to read as follows:

(1) "Advisory board" means the Towing and [;] Storage [~~,-and-Booting~~] Advisory Board.

(7) "Parking facility" has the meaning assigned by Section 401.002, Property Code [~~means public or private property used, wholly or partly, for restricted or paid vehicle parking. The term includes:~~

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

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

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

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

(8) "Parking facility owner" has the meaning assigned by Section 401.002, Property Code [~~means:~~

~~[(A) an individual, corporation, partnership, limited partnership, limited liability company, association, trust, or other legal entity owning or operating a parking facility;~~

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

~~[(C) a property owner having an exclusive~~

storage if the court, after a hearing, does not find probable cause for the towing and storage of the vehicle.

Sec. 2303.202. CONTENTS OF NOTICE.

Sec. 2303.203. HEARING.

SECTION 1.25. Same as introduced version.

SECTION 1.26. Sections 2308.002(1), (11), (14), (15), and (16), Occupations Code, are amended to read as follows:

(1) "Advisory board" means the Towing and [;] Storage [~~,-and-Booting~~] Advisory Board.

~~right under a dedicatory instrument, as that term is defined in Section 202.001, Property Code, to use a parking space].~~

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

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

(B) a motor vehicle towing:

(i) a race car;

(ii) a motor vehicle for exhibition; or

(iii) an antique motor vehicle;

(C) a recreational vehicle towing another vehicle;

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

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

(F) a motor vehicle that:

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

(ii) only tows vehicles rented by the entity;

(G) a truck-trailer combination that is owned or operated by a dealer licensed under Chapter 2301 and used to transport new vehicles during the normal course of a documented transaction in which the dealer is a party and ownership or the right of possession of the transported vehicle is conveyed or transferred; or

(H) a car hauler that is:

(i) designed to transport three or more motor vehicles at the same time; and

(ii) used solely to transport, other than in a consent or nonconsent tow, motor vehicles as cargo in the course of a prearranged shipping transaction or for use in mining, drilling, or construction operations.

(13) "Unauthorized vehicle" has the meaning assigned by Section 401.002, Property Code ~~[means a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner].~~

(14) "Vehicle" means a:

(A) motor vehicle, as defined by Section 501.002, Transportation Code; or

(14) "Vehicle" has the meaning assigned by Section 2303.002 ~~[means a device in, on, or by which a person or property may be~~

~~(B) vessel, as defined by Section 31.003, Parks and Wildlife Code [device in, on, or by which a person or property may be transported on a public roadway. The term includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer but does not include a device moved by human power or used exclusively on a stationary rail or track].~~

(15) "Vehicle owner" means a person:

(A) named as the purchaser or transferee in the certificate of title issued for the vehicle under Chapter 501, Transportation Code, or Chapter 31, Parks and Wildlife Code, as applicable;

(B) in whose name the vehicle is titled [registered] under Chapter 501 [502], Transportation Code, or Chapter 31, Parks and Wildlife Code, as applicable, or a member of the person's immediate family;

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

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

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

(16) "Vehicle storage facility" has the meaning assigned by [means a vehicle storage facility, as defined by] Section 2303.002 [-that is operated by a person who holds a license issued under Chapter 2303 to operate the facility].

SECTION 1.27. Subchapter A, Chapter 2308, Occupations Code, is amended by adding Section 2308.005 to read as follows:

Sec. 2308.005. MUNICIPAL LAW OR GOVERNMENTAL CONTRACT CONTROLS. Unless specifically provided otherwise, this chapter does not control over:

(1) a municipal ordinance or charter; or

(2) a contract with a governmental entity to provide incident management tow service.

SECTION 1.28. The heading to Subchapter B, Chapter 2308, Occupations Code, is amended.

SECTION 1.29. The heading to Section 2308.051, Occupations Code, is amended.

SECTION 1.30. Section 2308.051(a),

~~transported on a public roadway. The term includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer but does not include a device moved by human power or used exclusively on a stationary rail or track].~~

(15) "Vehicle owner" means a person:

(A) named as the purchaser or transferee in the certificate of title issued for the vehicle under Chapter 501, Transportation Code, or Chapter 31, Parks and Wildlife Code, as applicable;

(B) in whose name the vehicle is titled [registered] under Chapter 501 [502], Transportation Code, or Chapter 31, Parks and Wildlife Code, as applicable, or a member of the person's immediate family;

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

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

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

(16) "Vehicle storage facility" has the meaning assigned by [means a vehicle storage facility, as defined by] Section 2303.002 [-that is operated by a person who holds a license issued under Chapter 2303 to operate the facility].

SECTION 1.27. Subchapter A, Chapter 2308, Occupations Code, is amended by adding Section 2308.005 to read as follows:

Sec. 2308.005. MUNICIPAL LAW OR GOVERNMENTAL CONTRACT CONTROLS. Unless specifically provided otherwise, this chapter does not control over

a contract with a governmental entity to provide incident management tow service.

SECTION 1.28. Same as introduced version.

SECTION 1.29. Same as introduced version.

SECTION 1.30. Section 2308.051(a),

Occupations Code, as amended by Chapters 457 (H.B. 2548) and 845 (S.B. 2153), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

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

- (1) one representative of a towing company operating in a county with a population of less than one million;
- (2) one representative of a towing company operating in a county with a population of one million or more;
- (3) one **owner** of a vehicle storage facility located in a county with a population of less than one million;
- (4) one **owner** of a vehicle storage facility located in a county with a population of one million or more;
- (5) one parking facility **owner**;

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

(7) one **law enforcement officer** from a county with a population of one million or more;

(8) one representative of **property and casualty insurers who write**

automobile insurance in this state; and

~~[(9) one representative of a booting company]~~

(9) one **public member**.

SECTION 1.31. Section 2308.052, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) The presiding officer of the commission may remove a member who is absent from two or more consecutive meetings of the advisory board.

SECTION 1.32. Section 2308.057(a), Occupations Code, is amended.

SECTION 1.33. Section 2308.059, Occupations Code, is amended.

Occupations Code, as amended by Chapters 457 (H.B. 2548) and 845 (S.B. 2153), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

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

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

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

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

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

(5) one parking facility representative ~~owner~~;

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

(7) one peace officer ~~law enforcement officer~~ from a county with a population of one million or more;

(8) one representative of a member insurer, as defined by Section 462.004, Insurance Code, of the Texas Property and Casualty Insurance Guaranty Association who writes ~~property and casualty insurers who write~~

automobile insurance in this state; and

~~[(9) one representative of a booting company]~~

(9) one person who operates both a towing company and a vehicle storage facility ~~public member~~.

No equivalent provision.

SECTION 1.31. Same as introduced version.

SECTION 1.32. Same as introduced version.

SECTION 1.34. Subchapter B, Chapter 2308, Occupations Code, is amended by adding Section 2308.062 to read as follows:

Sec. 2308.062. CONTINUING EDUCATION PROGRAMS. (a) The commission by rule shall recognize, prepare, and administer continuing education programs for license holders.

(b) A person recognized by the commission to offer a continuing education program must:

(1) register with the department; and

(2) comply with rules adopted by the commission relating to continuing education.

SECTION 1.35. The heading to Subchapter C, Chapter 2308, Occupations Code, is amended.

SECTION 1.36. Section 2308.101, Occupations Code, is amended.

SECTION 1.37. Section 2308.102(a), Occupations Code, is amended.

SECTION 1.38. Section 2308.106(a), Occupations Code, is amended.

SECTION 1.39. Sections 2308.108(a), (b), and (e), Occupations Code, are amended to read as follows:

(a) The department shall issue a cab card for each tow truck issued a permit. The commission by rule shall prescribe the contents of the cab card ~~must:~~

~~[(1) show the permit number of the certificate issued under Section 2308.106(b);~~

~~[(2) show the type of permit issued;~~

~~[(3) show the vehicle unit number;~~

~~[(4) show the vehicle identification number; and~~

~~[(5) contain a statement that the vehicle has been issued a permit under this subchapter].~~

(b) The department shall issue a cab card when the department issues or renews a permit under this ~~chapter~~ ~~[subchapter]~~.

(e) If the department determines that the cab card system described by Subsections (a) through (c) is not an efficient means of enforcing this ~~chapter~~ ~~[subchapter]~~, the commission ~~[executive director]~~ by rule may adopt an alternative method that is accessible by law enforcement personnel in

SECTION 1.33. Subchapter B, Chapter 2308, Occupations Code, is amended by adding Section 2308.062 to read as follows:

Sec. 2308.062. CONTINUING EDUCATION PROGRAMS. (a) The commission by rule shall recognize, prepare, or administer continuing education programs for license holders.

(b) A person recognized by the commission to offer a continuing education program must:

(1) register with the department; and

(2) comply with rules adopted by the commission relating to continuing education.

SECTION 1.34. Same as introduced version.

SECTION 1.35. Same as introduced version.

SECTION 1.36. Same as introduced version.

SECTION 1.37. Same as introduced version.

SECTION 1.38. Sections 2308.108(b) and (e), Occupations Code, are amended to read as follows:

(b) The department shall issue a cab card when the department issues or renews a permit under this ~~chapter~~ ~~[subchapter]~~.

(e) If the department determines that the cab card system described by Subsections (a) through (c) is not an efficient means of enforcing this ~~chapter~~ ~~[subchapter]~~, the commission ~~[executive director]~~ by rule may adopt an alternative method that is accessible by law enforcement personnel in

the field and provides for the enforcement of the permit requirements of this chapter [subchapter].

SECTION 1.40. Section 2308.109(b), Occupations Code, is amended to read as follows:

(b) The information required to be displayed must be:

(1) printed in letters and numbers that are, at the time of initial application, at least two inches high and in a color that contrasts with the color of the background surface; and

(2) permanently affixed in conspicuous places on both sides of the tow truck.

SECTION 1.41. Sections 2308.110(a) and (c), Occupations Code, are amended.

SECTION 1.42. The heading to Subchapter D, Chapter 2308, Occupations Code, is amended.

SECTION 1.43. Section 2308.151, Occupations Code, is amended.

SECTION 1.44. Section 2308.152, Occupations Code, is amended.

SECTION 1.45. Section 2308.156, Occupations Code, is amended to read as follows:

Sec. 2308.156. NONTRANSFERABILITY OF LICENSE. (a) A license issued by the executive director is valid throughout this state and is not transferable.

(b) Notwithstanding Subsection (a), if the holder of a license issued under this chapter dies or is disabled, the commission may transfer the license to a member of the license holder's family.

SECTION 1.46. Section 2308.158, Occupations Code, is amended.

SECTION 1.47. Sections 2308.159(a) and (c), Occupations Code, are amended to read as follows:

(a) A license issued under this chapter [subchapter] is valid for one year. The department may adopt a system under which licenses expire at different times during the year.

the field and provides for the enforcement of the permit requirements of this chapter [subchapter].

SECTION 1.39. Section 2308.109(b), Occupations Code, is amended to read as follows:

(b) The information required to be displayed must be:

(1) printed in letters and numbers that are in a size and [~~at least two inches high and in a~~] color that comply with commission rules [~~contrasts with the color of the background surface~~]; and

(2) permanently affixed in conspicuous places on both sides of the tow truck.

SECTION 1.40. Same as introduced version.

SECTION 1.41. Same as introduced version.

SECTION 1.42. Same as introduced version.

SECTION 1.43. Same as introduced version.

SECTION 1.44. Section 2308.156, Occupations Code, is amended to read as follows:

Sec. 2308.156. NONTRANSFERABILITY OF LICENSE. (a) A license issued by the executive director is valid throughout this state and is not transferable.

(b) Notwithstanding Subsection (a), if the holder of a towing company license issued under this chapter dies or is disabled, the commission may transfer the license to a member of the license holder's family in accordance with commission rule.

SECTION 1.45. Same as introduced version.

SECTION 1.46. Section 2308.159(a), Occupations Code, is amended to read as follows:

(a) A license issued under this chapter [subchapter] is valid for one year. The department may adopt a system under which licenses expire at different times during the year.

- (c) A license holder may renew a license issued under this chapter by:
- (1) submitting an application on a form prescribed by the executive director;
 - (2) submitting evidence demonstrating compliance with the requirements for the license type as required by this chapter or commission rule;
 - (3) paying a renewal fee; and
 - (4) completing continuing education as required by Section 2308.163, 2308.173, or 2308.183, as applicable [~~2308.157~~].

SECTION 1.48. Chapter 2308, Occupations Code, is amended by adding Subchapters D-1, D-2, and D-3 to read as follows:

SUBCHAPTER D-1. INCIDENT MANAGEMENT TOWING

Sec. 2308.161. REQUIREMENTS FOR INCIDENT MANAGEMENT TOWING PERMIT.

Sec. 2308.162. INCIDENT MANAGEMENT TOWING OPERATOR'S LICENSE.

Sec. 2308.163. CONTINUING EDUCATION REQUIREMENTS FOR INCIDENT MANAGEMENT TOWING OPERATOR. (a) To renew an incident management towing operator's license for the first time, a license holder must complete an eight-hour professional development course relating to incident management towing that is approved and administered by the department.

(b) To renew an incident management towing operator's license after the first renewal, a license holder must complete a four-hour professional development course relating to incident management towing that is approved and administered by the department.

SUBCHAPTER D-2. PRIVATE PROPERTY TOWING

Sec. 2308.171. REQUIREMENTS FOR PRIVATE PROPERTY TOWING PERMIT. (a) A private property towing permit is required for a tow truck used to perform a nonconsent tow authorized by a parking facility owner under this chapter or Chapter 401, Property Code.

SECTION 1.47. Chapter 2308, Occupations Code, is amended by adding Subchapters D-1, D-2, and D-3 to read as follows:

SUBCHAPTER D-1. INCIDENT MANAGEMENT TOWING

Sec. 2308.161. REQUIREMENTS FOR INCIDENT MANAGEMENT TOWING PERMIT.

Sec. 2308.162. INCIDENT MANAGEMENT TOWING OPERATOR'S LICENSE.

SUBCHAPTER D-2. PRIVATE PROPERTY TOWING

Sec. 2308.171. REQUIREMENTS FOR PRIVATE PROPERTY TOWING PERMIT. (a) A private property towing permit is required for a tow truck used to perform a nonconsent tow authorized by a parking facility owner under this chapter.

(b) To be eligible for a private property towing permit, an applicant must submit evidence that:

(1) the tow truck to be permitted is equipped to tow light-duty or heavy-duty vehicles according to the manufacturer's towing guidelines;

(2) the applicant maintains at least \$300,000 of liability insurance coverage for the tow truck; and

(3) the applicant maintains at least \$50,000 of cargo insurance coverage for the tow truck.

(c) A tow truck permitted under this section may also be used for consent towing. A tow truck permitted under this section may not be used for incident management towing.

Sec. 2308.172. PRIVATE PROPERTY TOWING OPERATOR'S LICENSE.

Sec. 2308.173. CONTINUING EDUCATION REQUIREMENTS FOR PRIVATE PROPERTY TOWING OPERATOR. To renew a private property towing operator's license, a license holder must complete a four-hour professional development course relating to private property towing that is approved and administered by the department.

SUBCHAPTER D-3. CONSENT TOWING

Sec. 2308.181. REQUIREMENTS FOR CONSENT TOWING PERMIT.

Sec. 2308.182. CONSENT TOWING OPERATOR'S LICENSE.

Sec. 2308.183. CONTINUING EDUCATION REQUIREMENTS FOR CONSENT TOWING OPERATOR. To renew a consent towing operator's license, a license holder must complete a four-hour professional development course relating to consent towing that is approved and administered by the department.

SECTION 1.49. Section 2308.201(d), Occupations Code, is amended to read as follows:

(d) A political subdivision may not require a person who holds a driver's license or commercial driver's license to obtain a

(b) To be eligible for a private property towing permit, an applicant must submit evidence that:

(1) the tow truck to be permitted is equipped to tow light-duty or heavy-duty vehicles according to the manufacturer's towing guidelines;

(2) the applicant maintains at least \$300,000 of liability insurance coverage for the tow truck; and

(3) the applicant maintains at least \$50,000 of cargo insurance coverage for the tow truck.

(c) A tow truck permitted under this section may also be used for consent towing. A tow truck permitted under this section may not be used for incident management towing.

Sec. 2308.172. PRIVATE PROPERTY TOWING OPERATOR'S LICENSE.

Sec. 2308.173. CONTINUING EDUCATION REQUIREMENTS FOR PRIVATE PROPERTY TOWING OPERATOR. To renew a private property towing operator's license, a license holder must complete a four-hour professional development course relating to private property towing that is approved and administered by the department.

SUBCHAPTER D-3. CONSENT TOWING

Sec. 2308.181. REQUIREMENTS FOR CONSENT TOWING PERMIT.

Sec. 2308.182. CONSENT TOWING OPERATOR'S LICENSE.

Sec. 2308.183. CONTINUING EDUCATION REQUIREMENTS FOR CONSENT TOWING OPERATOR. To renew a consent towing operator's license, a license holder must complete a four-hour professional development course relating to consent towing that is approved and administered by the department.

No equivalent provision.

license or permit for operating a tow truck unless the person performs nonconsent tows in the territory of the political subdivision. A fee charged for a license or permit may not exceed \$50 [~~\$15~~].

SECTION 1.50. The heading to Section 2308.205, Occupations Code, is amended to read as follows:

Sec. 2308.205. TOWING OF [STORAGE OF TOWED] VEHICLES TO LICENSED VEHICLE STORAGE FACILITY.

SECTION 1.51. Sections 2308.2065(a) and (b), Occupations Code, are amended to read as follows:

(a) A license or permit holder may not charge a fee [~~for a nonconsent tow that is greater than~~]:

(1) [~~the fee~~] for a private property [~~nonconsent~~] tow that is greater than a fee:

(A) established under Section 2308.0575; or

or

(B) authorized by a political subdivision; or

(2) [~~a fee~~] for an incident management [a nonconsent] tow that is greater than a fee authorized by a political subdivision.

(b) A license or permit holder may not charge a fee [~~for a service related to a nonconsent tow that is not included in the list of fees established~~]:

(1) for a service related to a private property tow that is not included in the fees established under Section 2308.0575; or

(2) for a service related to an incident management tow that is not a fee authorized by a political subdivision.

SECTION 1.52. Section 2308.2085(a), Occupations Code, is amended to read as follows:

(a) A municipality may adopt an ordinance regulating [that is identical to the] booting companies and operators

No equivalent provision.

SECTION 1.48. Sections 2308.2065(a) and (b), Occupations Code, are amended to read as follows:

(a) A license or permit holder may not charge a fee for a nonconsent tow that is greater than:

(1) the fee for a private property [nonconsent] tow

established under Section 2308.0575; or

(2) a fee for an incident management or private property [a nonconsent] tow authorized by a political subdivision.

(b) A license or permit holder may not charge a fee for a service related to a nonconsent tow that is not included in the list of fees established:

(1) for a private property tow under Section 2308.0575; or

(2) by a political subdivision.

SECTION 1.49. Section 2308.2085, Occupations Code, is amended to read as follows:

Sec. 2308.2085. LOCAL AUTHORITY REGULATION OF [MUNICIPAL ORDINANCE REGULATING] BOOTING ACTIVITIES [COMPANIES AND OPERATORS].

(a) A local authority [municipality] may regulate, in areas in which the entity regulates parking or traffic, [adopt an ordinance that is identical to the] booting activities, including:

(1) operation of booting companies and operators that operate on a parking facility;

(2) any permit and sign requirements in connection with the booting of a vehicle;

~~[provisions in this chapter or that imposes additional requirements that exceed the minimum standards of the booting provisions in this chapter but may not adopt an ordinance that conflicts with the booting provisions in this chapter].~~

(See Sec. 401.054, Property Code below.)

SECTION 1.53. Section 2308.255, Occupations Code, is transferred to Subchapter I, Chapter 2308, Occupations Code, redesignated as Section 2308.4011, Occupations Code, and amended to read as follows:
Sec. 2308.4011 ~~[2308.255]~~. TOWING COMPANY'S ~~[OR BOOT OPERATOR'S]~~

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and

~~(3) [provisions in this chapter or that imposes additional requirements that exceed the minimum standards of the booting provisions in this chapter but may not adopt an ordinance that conflicts with the booting provisions in this chapter.~~

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

(b) Regulations adopted under this section must:

(1) incorporate the requirements of Sections 2308.257 and 2308.258;

(2) include procedures for vehicle owners and operators to file a complaint with the local authority regarding a booting company or operator;

(3) provide for the imposition of a penalty on a booting company or operator for a violation of Section 2308.258; and

(4) provide for the revocation of any permit, license, or other authority of a booting company or operator to boot vehicles if the company or operator violates Section 2308.258 more than twice in a five-year period ~~[(c) A municipality may require booting companies to obtain a permit to operate in the municipality].~~

SECTION 1.50. Section 2308.254, Occupations Code, is amended to read as follows:

Sec. 2308.254. LIMITATION ON PARKING FACILITY OWNER'S AUTHORITY TO TOW ~~[REMOVE]~~ UNAUTHORIZED VEHICLE. A parking facility owner may not have an unauthorized vehicle towed ~~[removed]~~ from the facility except:

(1) as provided by this chapter or a municipal ordinance that complies with Section 2308.208; or

(2) under the direction of a peace officer or the owner or operator of the vehicle.

SECTION 1.51. Section 2308.255, Occupations Code, is transferred to Subchapter I, Chapter 2308, Occupations Code, redesignated as Section 2308.4011, Occupations Code, and amended to read as follows:

Sec. 2308.4011 ~~[2308.255]~~. TOWING COMPANY'S ~~[OR BOOT OPERATOR'S]~~

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AUTHORITY TO TOW ~~REMOVE AND STORE OR BOOT~~ UNAUTHORIZED VEHICLE FROM PARKING FACILITY.

(a) A towing company ~~[that is insured as provided by Subsection (e)]~~ may, without the consent of an owner or operator of an unauthorized vehicle, tow ~~[remove and store]~~ the vehicle to ~~[at]~~ a vehicle storage facility at the expense of the owner or operator of the vehicle if:

~~[(1)]~~ the towing company has received written verification from the parking facility owner that the conditions for vehicle removal under Section 401.052, Property Code, are satisfied[-

~~[(A) the parking facility owner has installed the signs required by Section 2308.252(a)(1); or~~

~~[(B) the owner or operator received notice under Section 2308.252(a)(2) or the parking facility owner gave notice complying with Section 2308.252(a)(3); or~~

~~[(2) on request the parking facility owner provides to the owner or operator of the vehicle information on the name of the towing company and vehicle storage facility that will be used to remove and store the vehicle and the vehicle is:~~

~~[(A) left in violation of Section 2308.251;~~

~~[(B) in or obstructing a portion of a paved driveway; or~~

~~[(C) on a public roadway used for entering or exiting the facility and the removal is approved by a peace officer].~~

(b) A towing company may not tow ~~[remove]~~ an unauthorized vehicle except under:

(1) this chapter;

(2) a municipal ordinance that complies with Section 2308.208; or

(3) the direction of a peace officer or the owner or operator of the vehicle.

(c) ~~[Only a towing company that is insured against liability for property damage incurred in towing a vehicle may remove and store an unauthorized vehicle under this section.~~

~~[(d)]~~ A towing company may tow ~~[remove and store]~~ a vehicle under Subsection (a) to a licensed vehicle storage facility ~~[and a boot operator may boot a vehicle under Section 2308.257]~~ only if the parking facility owner:

(1) requests that the towing company tow ~~[remove and store or that the boot operator~~

AUTHORITY TO TOW ~~REMOVE AND STORE OR BOOT~~ UNAUTHORIZED VEHICLE FROM PARKING FACILITY.

(a) A towing company that is insured as provided by Subsection (c) may, without the consent of an owner or operator of an unauthorized vehicle, tow ~~[remove and store]~~ the vehicle to ~~[at]~~ a vehicle storage facility at the expense of the owner or operator of the vehicle if:

(1) the towing company has received written verification from the parking facility owner that:

(A) the parking facility owner has installed the signs required by Section 2308.252(a)(1); or

(B) the owner or operator received notice under Section 2308.252(a)(2) or the parking facility owner gave notice complying with Section 2308.252(a)(3); or

(2) on request the parking facility owner provides to the owner or operator of the vehicle information on the name of the towing company and vehicle storage facility that will be used to tow ~~[remove]~~ and store the vehicle and the vehicle is:

(A) left in violation of Section 2308.251;

(B) in or obstructing a portion of a paved driveway; or

(C) on a public roadway used for entering or exiting the facility and the removal is approved by a peace officer.

(b) A towing company may not tow ~~[remove]~~ an unauthorized vehicle except under:

(1) this chapter;

(2) a municipal ordinance that complies with Section 2308.208; or

(3) the direction of a peace officer or the owner or operator of the vehicle.

(c) Only a towing company that is insured against liability for property damage incurred in towing a vehicle may tow ~~[remove and store]~~ an unauthorized vehicle under this section.

(d) A towing company may tow ~~[remove and store]~~ a vehicle to a licensed storage facility under Subsection (a) ~~[and a boot operator may boot a vehicle under Section 2308.257]~~ only if the parking facility owner:

(1) requests that the towing company tow ~~[remove and store or that the boot operator~~

~~boot~~] the specific vehicle; or
(2) has a standing written agreement with the towing company [~~or boot operator~~] to enforce parking restrictions in the parking facility.

No equivalent provision.

(See Sec. 401.102, Property Code below.)

~~boot~~] the specific vehicle; or
(2) has a standing written agreement with the towing company [~~or boot operator~~] to enforce parking restrictions in the parking facility.

SECTION 1.52. Subchapter F, Chapter 2308, Occupations Code, is amended by adding Section 2308.258 to read as follows:
Sec. 2308.258. BOOT REMOVAL. (a) A booting company responsible for the installation of a boot on a vehicle shall remove the boot not later than one hour after the time the owner or operator of the vehicle contacts the company to request removal of the boot.

(b) A booting company shall waive the amount of the fee for removal of a boot, excluding any associated parking fees, if the company fails to have the boot removed within the time prescribed by Subsection (a).

SECTION 1.53. Section 2308.302, Occupations Code, is amended by adding Subsection (b-1) and amending Subsections (c), (d), and (e) to read as follows:

(b-1) Any portion of the sign that is not described by Subsection (b) must be red or white with any lettering contrasting with the background.

(c) The portion of the sign immediately below the international towing symbol must,

[~~(1)~~] in lettering at least two inches in height, contain the words, as applicable:

(1) [~~(A)~~] "Towing and Booting Enforced";

or

(2) [~~(B)~~] "Towing Enforced"; ~~or~~

(3) "Booting Enforced"; and

(4) consist of white letters on a bright red background].

(d) Except as provided by Subsection (e), the next lower portion of the sign must contain the remaining information required by Section 2308.301(b) displayed in [~~bright red~~] letters at least one inch in height [~~on a white background~~].

(e) The bottommost portion of the sign must contain the telephone numbers required by Section 2308.301(b), in lettering at least one inch in height and may, if the facility owner chooses or if an applicable municipal ordinance requires, include the name and address of the storage facility to

which an unauthorized vehicle will be towed ~~[removed. The lettering on this portion of the sign must consist of white letters on a bright red background].~~

(See Sec. 401.104, Property Code below.)

SECTION 1.54. Section 2308.304, Occupations Code, is amended to read as follows:

Sec. 2308.304. DESIGNATION OF RESTRICTED PARKING SPACES ON OTHERWISE UNRESTRICTED PARKING FACILITY. A parking facility owner may designate one or more spaces as restricted parking spaces on a portion of an otherwise unrestricted parking facility. Instead of installing a sign at each entrance to the parking facility as provided by Section 2308.301(a)(2), an owner may place a sign that prohibits unauthorized vehicles from parking in designated spaces and that otherwise complies with Sections 2308.301 and 2308.302:

- (1) at the right or left side of each entrance to a designated area or group of parking spaces located on the restricted portion of the parking facility; or
- (2) at the end of a restricted parking space so that the sign, the top of which must not be higher than seven feet above the ground, is directly facing and in front of ~~[a vehicle that is parked in the space and the rear of which is at the entrance of]~~ the restricted space.

SECTION 1.54. The heading to Section 2308.353, Occupations Code, is amended.

SECTION 1.55. Same as introduced version.

SECTION 1.55. Sections 2308.353(b) and (c), Occupations Code, are amended to read as follows:

SECTION 1.56. Section 2308.353(c), Occupations Code, is amended to read as follows:

- (b) A sign under Subsection (a)(2) must:
- (1) state that a vehicle parked in the right-of-way may be towed at the expense of the owner or operator of the vehicle;
 - (2) be placed facing the public roadway:
 - (A) on the parking facility owner's property not more than two feet from the common boundary line; and
 - (B) at intervals so that no point in the boundary line is less than 25 feet from a sign posted under this subsection; and
 - (3) in all other respects comply with Subchapter C, Chapter 401, Property Code ~~[G]~~.

(c) After signs have been posted under

(c) After signs have been posted under

Subsection (b), the parking facility owner may have [Ø] a towing company tow [~~may remove~~] an unauthorized vehicle from the right-of-way subject to the governmental entity's written permission given under Subsection (a)(2).

SECTION 1.56. Section 2308.354, Occupations Code, is transferred to Subchapter E, Chapter 2308, Occupations Code, and redesignated as Section 2308.210, Occupations Code, to read as follows:

Sec. 2308.210 [~~2308.354~~]. AUTHORITY FOR REMOVAL OF VEHICLE FROM PUBLIC ROADWAY. (a) Under an ordinance of a municipality regulating the parking of vehicles in the municipality, to aid in the enforcement of the ordinance, an employee designated by the municipality may be authorized to:

(1) immobilize a vehicle parked in the municipality; and

(2) ~~remove~~ an immobilized vehicle from a public roadway in the municipality.

(b) A parking facility owner or towing company may not ~~remove~~ a vehicle from a public roadway except under:

(1) this chapter or a municipal ordinance that complies with Section 2308.208; or

(2) the direction of a peace officer or the owner or operator of the vehicle.

(c) In addition to the authority granted under Subsection (a) and to aid in the enforcement of an ordinance regulating the parking of vehicles, a municipality with a population of 1.9 million or more may authorize a designated employee to request the ~~removal~~ of a vehicle parked illegally in an area designated as a tow-away zone in a residential area where on-street parking is regulated by the ordinance.

(d) Subsections (a) and (c) do not apply to a vehicle owned by an electric, gas, water, or telecommunications utility while the vehicle is parked for the purpose of conducting work on a facility of the utility that is located below, above, or adjacent to the street.

SECTION 1.57. The heading to Subchapter I, Chapter 2308, Occupations Code, is amended to read as follows:

SUBCHAPTER I. REGULATION OF TOWING COMPANIES [~~,-BOOTING~~

Subsection (b), the parking facility owner may have [Ø] a towing company tow [~~may remove~~] an unauthorized vehicle from the right-of-way subject to the governmental entity's written permission given under Subsection (a)(2).

SECTION 1.57. Section 2308.354, Occupations Code, is transferred to Subchapter E, Chapter 2308, Occupations Code, redesignated as Section 2308.210, Occupations Code, and amended to read as follows:

Sec. 2308.210 [~~2308.354~~]. AUTHORITY FOR TOWING [~~REMOVAL~~] OF VEHICLE FROM PUBLIC ROADWAY.

(a) Under an ordinance of a municipality regulating the parking of vehicles in the municipality, to aid in the enforcement of the ordinance, an employee designated by the municipality may be authorized to:

(1) immobilize a vehicle parked in the municipality; and

(2) tow [~~remove~~] an immobilized vehicle from a public roadway in the municipality.

(b) A parking facility owner or towing company may not tow [~~remove~~] a vehicle from a public roadway except under:

(1) this chapter or a municipal ordinance that complies with Section 2308.208; or

(2) the direction of a peace officer or the owner or operator of the vehicle.

(c) In addition to the authority granted under Subsection (a) and to aid in the enforcement of an ordinance regulating the parking of vehicles, a municipality with a population of 1.9 million or more may authorize a designated employee to request the towing [~~removal~~] of a vehicle parked illegally in an area designated as a tow-away zone in a residential area where on-street parking is regulated by the ordinance.

(d) Subsections (a) and (c) do not apply to a vehicle owned by an electric, gas, water, or telecommunications utility while the vehicle is parked for the purpose of conducting work on a facility of the utility that is located below, above, or adjacent to the street.

SECTION 1.58. The heading to Subchapter I, Chapter 2308, Occupations Code, is amended to read as follows:

SUBCHAPTER I. REGULATION OF TOWING COMPANIES [~~,-BOOTING~~

COMPANIES, ~~AND~~ PARKING
FACILITY OWNERS]

SECTION 1.58. Section 2308.402, Occupations Code, is amended to read as follows:

Sec. 2308.402. TOWING COMPANY [~~AND BOOTING COMPANY~~] PROHIBITED FROM FINANCIAL INVOLVEMENT WITH PARKING FACILITY OWNER. (a) A towing company [~~or booting company~~] may not directly or indirectly give anything of value to a parking facility owner in connection with [:

[~~(1)~~] the towing [~~removal~~] of a vehicle from a parking facility [; ~~or~~

[~~(2)~~ the booting of a vehicle in a parking facility].

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

[~~(1)~~] from which the towing company for compensation tows [~~removes~~] unauthorized vehicles [; ~~or~~

[~~(2)~~ in which the booting company for compensation installs boots on unauthorized vehicles].

(c) This section does not apply to a sign required under Section 401.101, Property Code, [~~2308.301~~] provided by a towing [~~or booting~~] company to a parking facility owner.

(See Sec. 401.202, Property Code below.)

COMPANIES,] AND PARKING
FACILITY OWNERS

SECTION 1.59. Section 2308.402, Occupations Code, is amended to read as follows:

Sec. 2308.402. TOWING COMPANY [~~AND BOOTING COMPANY~~] PROHIBITED FROM FINANCIAL INVOLVEMENT WITH PARKING FACILITY OWNER. (a) A towing company [~~or booting company~~] may not directly or indirectly give anything of value to a parking facility owner in connection with [:

[~~(1)~~] the towing [~~removal~~] of a vehicle from a parking facility [; ~~or~~

[~~(2)~~ the booting of a vehicle in a parking facility].

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

[~~(1)~~] from which the towing company for compensation tows [~~removes~~] unauthorized vehicles [; ~~or~~

[~~(2)~~ in which the booting company for compensation installs boots on unauthorized vehicles].

(c) This section does not apply to a sign required under Section 2308.301 provided by a towing [~~or booting~~] company to a parking facility owner.

SECTION 1.60. Section 2308.403, Occupations Code, is amended to read as follows:

Sec. 2308.403. LIMITATION ON LIABILITY OF PARKING FACILITY OWNER FOR TOWING [~~REMOVAL~~] OR STORAGE OF UNAUTHORIZED VEHICLE. A parking facility owner who causes the towing [~~removal~~] of an unauthorized vehicle is not liable for damages arising from the towing [~~removal~~] or storage of the vehicle if the vehicle:

(1) was towed [~~removed~~] in compliance with this chapter; and

(2) is:

(A) towed [~~removed~~] by a towing company insured against liability for property damage incurred in towing a vehicle; and

(B) stored by a vehicle storage facility insured against liability for property damage incurred in storing a vehicle.

SECTION 1.59. Section 2308.404, Occupations Code, is amended to read as follows:

Sec. 2308.404. CIVIL LIABILITY OF TOWING COMPANY [~~BOOTING COMPANY, OR PARKING FACILITY OWNER~~] FOR VIOLATION OF CHAPTER.

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

(1) damages arising from the towing [~~removal, storage, or booting~~] of the vehicle; and

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

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

(c) A towing company ~~that~~ [~~booting company, or parking facility owner who~~] intentionally, knowingly, or recklessly violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for \$1,000 plus three times the amount of fees assessed in the vehicle's [~~removal,~~] towing [~~storage, or booting~~].

SECTION 1.60. Section 2308.452, Occupations Code, is amended to read as follows:

Sec. 2308.452. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO HEARING.

The owner or operator of a vehicle that has been towed to [~~removed and placed in~~] a vehicle storage facility [~~or booted~~] without the consent of the owner or operator of the vehicle is entitled to a hearing on whether probable cause existed for the tow [~~removal and placement or booting~~].

SECTION 1.61. Section 2308.453, Occupations Code, is amended.

SECTION 1.61. Section 2308.404, Occupations Code, is amended to read as follows:

Sec. 2308.404. CIVIL LIABILITY OF TOWING COMPANY [~~BOOTING COMPANY,~~] OR PARKING FACILITY OWNER FOR VIOLATION OF SUBCHAPTER [~~CHAPTER~~].

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

(1) damages arising from the towing or [~~removal,~~] storage [~~or booting~~] of the vehicle; and

(2) towing or [~~storage~~] storage [~~or booting~~] fees paid by the owner or operator [~~assessed~~] in connection with the vehicle's towing or [~~removal,~~] storage [~~or booting~~].

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

(c) A towing company [~~booting company,~~] or parking facility owner who intentionally, knowingly, or recklessly violates this subchapter [~~chapter~~] is liable to the owner or operator of the vehicle that is the subject of the violation for \$1,000 plus three times the amount of fees paid by the owner or operator [~~assessed~~] in connection with the vehicle's [~~removal,~~] towing or [~~storage~~] storage [~~or booting~~].

SECTION 1.62. Section 2308.452, Occupations Code, is amended to read as follows:

Sec. 2308.452. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO HEARING.

(a) The owner or operator of a vehicle that has been towed to [~~removed and placed in~~] a vehicle storage facility [~~or booted~~] without the consent of the owner or operator of the vehicle is entitled to a hearing on whether probable cause existed for the tow [~~removal and placement or booting~~].

(b) In a hearing authorized by Subsection (a), a court may determine only the issues described by Section 2308.458(c).

SECTION 1.63. Same as introduced version.

SECTION 1.62. Sections 2308.456(a), (b), and (c), Occupations Code, are amended.

SECTION 1.63. Sections 2308.458(b), (c), and (e), Occupations Code, are amended to read as follows:

(b) The court shall notify the person who requested the hearing ~~[for a towed vehicle]~~, the parking facility owner or law enforcement agency that authorized the towing [removal] of the vehicle, the towing company, and the vehicle storage facility in which the vehicle was stored [placed] of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure. The notice of the hearing to the towing company and the parking facility owner or law enforcement agency that authorized the towing [removal] of the vehicle must include a copy of the request for hearing.

Notice to the law enforcement agency that authorized the towing [removal] of the vehicle is sufficient as notice to the political subdivision in which the law enforcement agency is located.

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

(1) whether probable cause existed for the towing [removal and placement] of the vehicle;

(2) whether a towing charge imposed or collected in connection with the towing [removal or placement] of the vehicle was [greater than the amount] authorized [by the political subdivision] under Section 2308.2065 [2308.201 or 2308.202]; or

(3) whether a storage [towing] charge imposed or collected in connection with the storage [removal or placement] of the vehicle in a vehicle storage facility was authorized or was greater than the amount authorized under Chapter 2303 [Section 2308.203; or

~~[(4) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized under Section 2308.0575].~~

SECTION 1.64. Same as introduced version.

SECTION 1.65. Section 2308.458, Occupations Code, is amended by amending Subsections (b), (c), and (e) and adding Subsections (c-2), (c-3), (f), and (g) to read as follows:

(b) The court shall notify the person who requested the hearing ~~[for a towed vehicle]~~, the parking facility owner or law enforcement agency that authorized the towing [removal] of the vehicle, the towing company, and the vehicle storage facility in which the vehicle was stored [placed] of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure. The notice of the hearing to the towing company and the parking facility owner or law enforcement agency that authorized the towing [removal] of the vehicle must include a copy of the request for hearing, including any photographs, exhibits, schedules, or other evidence, attached to or included or filed with the request for hearing.

Notice to the law enforcement agency that authorized the towing [removal] of the vehicle is sufficient as notice to the political subdivision in which the law enforcement agency is located.

(c) The only issues in a hearing regarding a towed vehicle under this chapter, at trial in a justice court or on appeal, are:

(1) whether probable cause existed for the towing [removal and placement] of the vehicle;

(2) whether a towing charge imposed or collected in connection with the towing [removal or placement] of the vehicle was [greater than the amount] authorized [by the political subdivision] under Section 2308.2065 [2308.201 or 2308.202]; or

(3) whether a storage [towing] charge imposed or collected in connection with the storage [removal or placement] of the vehicle in a vehicle storage facility was authorized or was greater than the amount authorized under Chapter 2303 [Section 2308.203; or

~~[(4) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized under Section 2308.0575].~~

(e) The court may award:

- (1) court costs [~~and attorney's fees~~] to the prevailing party;
- (2) the reasonable cost of photographs submitted under Section 2308.456(b)(8) to a vehicle owner or operator who is the prevailing party;
- (3) an amount equal to the amount by which [that] the towing or storage charge [or booting removal charge and associated parking fees] exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303; and
- (4) reimbursement of fees paid for vehicle towing and[;] storage[; or removal of a boot].

SECTION 1.64. Subchapter J, Chapter 2308, Occupations Code, is amended by adding Section 2308.4581 to read as follows:

Sec. 2308.4581. PAYMENT OF COST OF TOWING AND STORAGE OF VEHICLE.

- (a) If after a hearing held under this subchapter the court finds that a person or law enforcement agency authorized, with probable cause, the towing and storage of a vehicle, the person who requested the hearing shall pay the costs of the towing and storage.
- (b) If after a hearing held under this

(c-2) In determining whether probable cause for the towing of a vehicle existed under Subsection (c)(1), the court shall consider the facts known to the tow operator at the time the vehicle was towed and stored in a vehicle storage facility.

(c-3) The court shall find that probable cause for the towing of a vehicle existed under Subsection (c)(1) if a vehicle was towed from the parking facility of a multiunit complex, as defined by Section 92.151, Property Code, where the vehicle was parked in violation of the parking rules or policies of the multiunit complex.

(e) The court may award, at trial in a justice court or on appeal, only:

- (1) court costs [~~and attorney's fees~~] to the prevailing party;
- (2) the reasonable cost of photographs submitted under Section 2308.456(b)(8) to a vehicle owner or operator who is the prevailing party;
- (3) an amount equal to the amount by which [that] the towing or storage charge [or booting removal charge and associated parking fees] exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303; and
- (4) reimbursement of fees paid for vehicle towing and[;] storage[; or removal of a boot].

(f) In a hearing under this chapter, in a justice court or on appeal, any issue of fact or law must be submitted to and determined by the court.

(g) In a hearing under this chapter, on appeal, the court may not consider an issue or claim that was not presented or award damages or relief that was not requested in justice court.

SECTION 1.66. Subchapter J, Chapter 2308, Occupations Code, is amended by adding Section 2308.4581 to read as follows:

Sec. 2308.4581. PAYMENT OF COST OF TOWING AND STORAGE OF VEHICLE.

- (a) If after a hearing held under this chapter the court finds that a person or law enforcement agency authorized, with probable cause, the towing and storage of a vehicle, the person who requested the hearing shall pay the costs of the towing and storage.
- (b) If after a hearing held under this chapter

subchapter the court does not find that a person or law enforcement agency authorized, with probable cause, the towing and storage of a vehicle, the towing company, vehicle storage facility, parking facility owner, or law enforcement agency that authorized the tow shall:

(1) pay the costs of the towing and storage; or

(2) reimburse the owner or operator for the cost of the towing and storage paid by the owner or operator.

(c) If after a hearing held under this subchapter, regardless of whether the court finds that there was probable cause for the towing and storage of a vehicle, the court finds that the amount of a towing or storage charge collected was not authorized by Section 2308.2065 or Chapter 2303, the towing company or vehicle storage facility as applicable shall reimburse the owner or operator of the vehicle an amount equal to the amount of the overcharge for towing or storage.

SECTION 1.65. Section 2308.459, Occupations Code, is amended.

SECTION 1.66. Section 2308.505(a), Occupations Code, is amended.

ARTICLE 2. PARKING FACILITIES AND PARKING FACILITY OWNERS

SECTION 2.01. The Property Code is amended by adding Title 16 to read as follows:

TITLE 16. MISCELLANEOUS RIGHTS AND DUTIES OF PROPERTY OWNERS

CHAPTER 401. PARKING FACILITIES AND PARKING FACILITY OWNERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 401.001. SHORT TITLE. This chapter may be cited as the Texas Parking Facility Act.

Sec. 401.002. DEFINITIONS. In this chapter:

(1) "Parking facility" means public or private property used, wholly or partly, for restricted or paid vehicle parking, including:

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

(B) a commercial parking lot, a parking garage, and a parking area serving or

the court does not find that a person or law enforcement agency authorized, with probable cause, the towing and storage of a vehicle, the towing company, vehicle storage facility, parking facility owner, or law enforcement agency that authorized the tow shall:

(1) pay the costs of the towing and storage; or

(2) reimburse the owner or operator for the cost of the towing and storage paid by the owner or operator.

(c) If after a hearing held under this chapter, regardless of whether the court finds that there was probable cause for the towing and storage of a vehicle, the court finds that the amount of a towing or storage charge collected was not authorized by Section 2308.2065 or Chapter 2303, the towing company or vehicle storage facility as applicable shall reimburse the owner or operator of the vehicle an amount equal to the amount of the overcharge for towing or storage.

SECTION 1.67. Same as introduced version.

SECTION 1.68. Same as introduced version.

No equivalent provision.

No equivalent provision, except as otherwise provided.

adjacent to a business, church, school, home that charges a fee for parking, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including:

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

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

(2) "Parking facility owner" means:

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

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

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

(3) "Private property tow" has the meaning assigned by Section 2308.002, Occupations Code.

(4) "Towing company" has the meaning assigned by Section 2308.002, Occupations Code.

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

(6) "Vehicle" has the meaning assigned by Section 2308.002, Occupations Code.

(7) "Vehicle owner" has the meaning assigned by Section 2308.002, Occupations Code.

(8) "Vehicle storage facility" has the meaning assigned by Section 2303.002, Occupations Code.

SUBCHAPTER B. UNAUTHORIZED VEHICLES AT PARKING FACILITY

Sec. 401.051. PROHIBITION AGAINST UNATTENDED VEHICLES IN CERTAIN AREAS OF PARKING FACILITY.

(a) The owner or operator of a vehicle may not leave unattended on a parking facility a vehicle that:

- (1) is in or obstructs a vehicular traffic aisle, entry, or exit of the parking facility;
- (2) prevents a vehicle from exiting a parking space in the facility;
- (3) is in or obstructs a fire lane marked according to Subsection (c);
- (4) does not display the special license plates issued under Section 504.201, Transportation Code, or the disabled parking placard issued under Chapter 681, Transportation Code, for a vehicle transporting a disabled person and that is in a parking space designated for the exclusive use of a vehicle transporting a disabled person; or
- (5) is leaking a fluid that presents a hazard or threat to persons or property.

(b) Subsection (a) does not apply to an emergency vehicle that is owned by, or the operation of which is authorized by, a governmental entity.

(c) If a government regulation governing the marking of a fire lane applies to a parking facility, a fire lane in the facility must be marked as provided by the regulation. If a government regulation on the marking of a fire lane does not apply to the parking facility, all curbs of fire lanes must be painted red and be conspicuously and legibly marked with the warning "FIRE LANE--TOW AWAY ZONE" in white letters at least three inches high, at intervals not exceeding 50 feet.

Sec. 401.052. TOWING AND STORAGE OF UNAUTHORIZED VEHICLE. (a) A parking facility owner may, without the consent of the owner or operator of an unauthorized vehicle, cause the vehicle and any property on or in the vehicle to be towed by a person licensed under Chapter 2308, Occupations Code, and stored at a vehicle storage facility operated by a person licensed under Chapter 2303, Occupations Code, at the vehicle owner's or operator's expense if:

- (1) signs that comply with Subchapter C prohibiting unauthorized vehicles are located on the parking facility at the time of towing and for the preceding 24 hours and remain installed at the time of towing;
- (2) the owner or operator of the vehicle has received actual notice from the parking facility owner that the vehicle will be towed at the vehicle owner's or operator's expense if it is in or not removed from an

unauthorized space;

(3) the parking facility owner gives notice to the owner or operator of the vehicle under Subsection (b); or

(4) on request, the parking facility owner provides to the owner or operator of the vehicle information on the name of the towing company and vehicle storage facility that will be used to tow and store the vehicle and the vehicle is:

(A) left in violation of Section 401.051 or 401.053; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility.

(b) A parking facility owner is considered to have given notice under Subsection (a)(3) if:

(1) a conspicuous notice has been attached to the vehicle's front windshield or, if the vehicle has no front windshield, to a conspicuous part of the vehicle stating:

(A) that the vehicle is in a parking space in which the vehicle is not authorized to be parked;

(B) a description of all other unauthorized areas in the parking facility;

(C) that the vehicle will be towed at the expense of the owner or operator of the vehicle if it remains in an unauthorized area of the parking facility; and

(D) a telephone number that is answered 24 hours a day to enable the owner or operator of the vehicle to locate the vehicle; and

(2) a notice is mailed after the notice is attached to the vehicle as provided by Subdivision (1) to the owner of the vehicle by certified mail, return receipt requested, to the last address shown for the owner according to the vehicle registration records of the Texas Department of Motor Vehicles, or if the vehicle is registered in another state, the appropriate agency of that state.

(c) The notice under Subsection (b)(2) must:

(1) state that the vehicle is in a space in which the vehicle is not authorized to park;

(2) describe all other unauthorized areas in the parking facility;

(3) contain a warning that the unauthorized vehicle will be towed at the expense of the owner or operator of the vehicle if it is not removed from the parking facility before the 15th day after the postmark date of the notice; and

(4) state a telephone number that is answered 24 hours a day to enable the owner or operator to locate the vehicle.

(d) The mailing of a notice under Subsection (b)(2) is not required if, after the notice is attached under Subsection (b)(1), the owner or operator of the vehicle leaves the vehicle in another location where parking is unauthorized for the vehicle according to the notice.

Sec. 401.053. UNATTENDED VEHICLES ON PARKING FACILITY OF APARTMENT COMPLEX; TOWING AND STORAGE OF VEHICLES. (a) This section applies only to a parking facility serving or adjacent to an apartment complex consisting of one or more residential apartment units and any adjacent real property serving the apartment complex.

(b) The owner or operator of a vehicle may not leave unattended on a parking facility a vehicle that:

(1) obstructs a gate that is designed or intended for the use of pedestrians or vehicles;

(2) obstructs pedestrian or vehicular access to an area that is used for the placement of a garbage or refuse receptacle used in common by residents of the apartment complex;

(3) is in or obstructs a restricted parking area or parking space designated under Subchapter C, including a space designated for the use of employees or maintenance personnel of the parking facility or apartment complex;

(4) is in a tow away zone, other than a fire lane described by Section 401.051(c), that is brightly painted and is conspicuously and legibly marked with the warning "TOW AWAY ZONE" in contrasting letters at least three inches high;

(5) is a semitrailer, trailer, or truck-tractor, as defined by Section 502.001, Transportation Code, unless the owner or operator of the vehicle is permitted under the terms of a rental or lease agreement with the apartment complex to leave the unattended vehicle on the parking facility;
or

(6) is leaking a fluid that presents a hazard or threat to persons or property.

(c) A parking facility owner may not have an emergency vehicle described by Section 401.051(b) towed from the parking facility.

(d) Except as provided by a contract described by Subsection (e), a parking facility owner may not have a vehicle towed from the parking facility merely because the vehicle does not display an unexpired license plate or registration insignia issued for the vehicle under Chapter 502, Transportation Code, or the vehicle registration law of another state or country.

(e) A contract provision providing for the towing from a parking facility of a vehicle that does not display an unexpired license plate or registration insignia is valid only if the provision requires the owner or operator of the vehicle to be given at least 10 days' written notice that the vehicle will be towed from the facility at the vehicle owner's or operator's expense if it is not removed from the parking facility. The notice must be:

(1) delivered in person to the owner or operator of the vehicle; or

(2) sent by certified mail, return receipt requested, to the owner or operator of the vehicle.

(f) This section may not be construed:

(1) to authorize the owner or operator of a vehicle to leave an unattended vehicle on property that is not designed or intended for the parking of vehicles; or

(2) to limit or restrict the enforcement of Chapter 683, Transportation Code.

(g) A provision of an apartment lease or rental agreement entered into or renewed on or after January 1, 2004, that is in conflict or inconsistent with this section is void and may not be enforced.

Sec. 401.054. LIMITATION ON PARKING FACILITY OWNER'S AUTHORITY TO TOW UNAUTHORIZED VEHICLE. A parking facility owner may not have an unauthorized vehicle towed from the facility except:

(1) as provided by this chapter or a municipal ordinance that complies with Section 2308.208, Occupations Code; or

(2) under the direction of a peace officer or the owner or operator of the vehicle.

SUBCHAPTER C. SIGNS PROHIBITING UNAUTHORIZED VEHICLES AND DESIGNATING RESTRICTED AREAS

Sec. 401.101. GENERAL REQUIREMENTS FOR SIGN PROHIBITING UNAUTHORIZED VEHICLES. (a) Except as provided by Section 401.104 or 401.105, an

(See SECTION 1.50 above.)

unauthorized vehicle may not be towed under Section 401.052(a)(1) unless a sign prohibiting unauthorized vehicles on a parking facility is:

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

(2) located:

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

(B) at intervals along the entrance so that no entrance is farther than 25 feet from a sign if:

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

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

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

(4) installed on the parking facility; and

(5) installed so that the bottom edge of the sign is not lower than five feet and not higher than eight feet above ground level.

(b) Except as provided by Section 401.105, an unauthorized vehicle may be towed under Section 401.052(a)(1) only if each sign prohibiting unauthorized vehicles:

(1) is made of weather-resistant material;

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

(3) contains the international symbol for towing vehicles;

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

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

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

(7) contains a number, including the area code, of a telephone that is answered 24 hours a day to enable an owner or operator of a vehicle to locate a towed vehicle.

Sec. 401.102. COLOR, LAYOUT, AND LETTERING HEIGHT REQUIREMENTS.

(a) Except as provided by Section 401.105, each sign required by this chapter must comply with the color, layout, and lettering height requirements of this section.

(b) A bright red international towing symbol, which is a solid silhouette of a tow

(See SECTION 1.53 above.)

truck towing a vehicle on a generally rectangular white background, at least four inches high, must be on the uppermost portion of a sign or on a separate sign placed immediately above the sign.

(c) The portion of the sign immediately below the international towing symbol must: (1) in lettering at least two inches high, contain the words "Towing Enforced"; and (2) consist of white letters on a bright red background.

(d) Except as provided by Subsection (e), the next lower portion of the sign must contain the remaining information required by Section 401.101(b) displayed in bright red letters at least one inch high on a white background.

(e) The bottommost portion of the sign must contain a telephone number required by Section 401.101(b) in lettering at least one inch high and may, if the facility owner chooses or if an applicable municipal ordinance requires, include the name and address of the storage facility to which an unauthorized vehicle will be towed. The lettering on this portion of the sign must consist of white letters on a bright red background.

Sec. 401.103. TELEPHONE NUMBER FOR LOCATING TOWED VEHICLE REQUIRED. If a parking facility owner posts a sign described by Sections 401.101 and 401.102, the owner of a vehicle that is towed from the facility under this chapter must be able to locate the vehicle by calling the telephone number on the sign.

Sec. 401.104. DESIGNATION OF RESTRICTED PARKING SPACES ON OTHERWISE UNRESTRICTED PARKING FACILITY. A parking facility owner may designate one or more spaces as restricted parking spaces on a portion of an otherwise unrestricted parking facility. Instead of installing a sign at each entrance to the parking facility as provided by Section 401.101(a)(2), an owner may place in the designated spaces a sign that prohibits unauthorized vehicles from parking in those spaces and that otherwise complies with Sections 401.101 and 401.102:

- (1) at the right or left side of each entrance to a designated area or group of parking spaces located on the restricted portion of the parking facility; or
- (2) at the end of a restricted parking space

(See SECTION 1.54 above.)

so that the sign, the top of which must not be higher than seven feet above the ground, is in front of a vehicle that is parked in the space with the rear of the vehicle at the entrance of the space.

Sec. 401.105. INDIVIDUAL PARKING RESTRICTIONS IN RESTRICTED AREA.

(a) A parking facility owner who complies with Sections 401.101 and 401.102 may impose further specific parking restrictions in an area to which the signs apply for individual spaces by installing or painting a weather-resistant sign or notice on a curb, pole, post, permanent wall, or permanent barrier so that the sign is in front of a vehicle that is parked in the space with the rear of the vehicle at the entrance of the space.

(b) The top of the sign or notice may not be higher than seven feet above the ground.

(c) The sign or notice must include an indication that the space is reserved for a particular unit number, person, or type of person.

(d) The letters on the sign or notice under this section must be at least two inches high and must be in contrast to the color of the curb, pole, post, wall, or barrier so that the letters can be read during the day and at night. The letters are not required to be illuminated or made of reflective material.

SUBCHAPTER D. TOWING OF UNAUTHORIZED VEHICLES FROM CERTAIN PUBLIC ROADWAY PARKING FACILITY AREAS

Sec. 401.151. TOWING OF UNAUTHORIZED VEHICLE FROM LEASED RIGHT-OF-WAY. Unless prohibited by the lease, a parking facility owner or towing company may tow an unauthorized vehicle parked in a leased area described by Section 401.002(1)(B)(i) if the owner or towing company gives notice under Section 401.052(a)(1), (2), or (3) and otherwise complies with this chapter.

Sec. 401.152. TOWING OF UNAUTHORIZED VEHICLE FROM AREA BETWEEN PARKING FACILITY AND PUBLIC ROADWAY. Unless prohibited by a municipal ordinance, a parking facility owner may have a towing company tow an unauthorized vehicle any part of which is in an area described by Section 401.002(1)(B)(ii) if notice under Section 401.052(a)(2) or (3) is given and the

owner or towing company otherwise complies with this chapter.

SUBCHAPTER E. PARKING FACILITY OWNERS

Sec. 401.201. PARKING FACILITY OWNER PROHIBITED FROM RECEIVING FINANCIAL GAIN FROM TOWING COMPANY. (a) A parking facility owner may not directly or indirectly accept anything of value from a towing company in connection with the towing of a vehicle from a parking facility.

(b) A parking facility owner may not have a direct or indirect monetary interest in a towing company that for compensation tows unauthorized vehicles from a parking facility in which the parking facility owner has an interest.

(c) This section does not apply to a sign required under Section 401.101 provided by a towing company to a parking facility owner.

Sec. 401.202. LIMITATION ON LIABILITY OF PARKING FACILITY OWNER FOR TOWING OR STORAGE OF UNAUTHORIZED VEHICLE. A parking facility owner who causes the towing of an unauthorized vehicle is not liable for damages arising from the towing or storage of the vehicle if the vehicle:

(1) was towed in compliance with this chapter; and

(2) is:

(A) towed by a towing company insured against liability for property damage incurred in towing a vehicle; and

(B) stored by a vehicle storage facility insured against liability for property damage incurred in storing a vehicle.

Sec. 401.203. CIVIL LIABILITY OF PARKING FACILITY OWNER FOR VIOLATION OF CHAPTER. (a) A parking facility owner who violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for:

(1) damages arising from the towing or storage of the vehicle; and

(2) towing or storage fees assessed in connection with the vehicle's towing or storage.

(b) A vehicle's owner or operator is not required to prove negligence of a parking facility owner to recover under Subsection (a).

(See SECTION 1.60 above.)

(c) A parking facility owner who intentionally, knowingly, or recklessly violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for \$1,000 plus three times the amount of fees assessed in the vehicle's towing or storage.

Sec. 401.204. VIOLATION OF CHAPTER; INJUNCTION. A violation of this chapter may be enjoined under Subchapter E, Chapter 17, Business & Commerce Code.

Sec. 401.205. MINOR SIGN OR LETTERING HEIGHT VARIATIONS. A minor variation of a required or minimum height of a sign or lettering is not a violation of this chapter.

ARTICLE 3. CONFORMING AMENDMENTS

SECTION 3.01. Section 2158.001(2), Occupations Code, is amended to read as follows:

(2) "Parking facility," "parking facility owner," and "vehicle" have the meanings assigned by Section 401.002, Property [2308.002, Occupations] Code.

SECTION 3.02. Section 503.096(a), Transportation Code, is amended.

SECTION 3.03. Section 683.001(2), Transportation Code, is amended.

SECTION 3.04. Section 683.003, Transportation Code, is amended.

ARTICLE 4. REPEALERS

SECTION 4.01. The following provisions of the Occupations Code are repealed:

- (1) Sections 2303.056(c) and (d);
- (2) Sections 2303.1015 and 2303.1016;
- (3) Section 2303.161;
- (4) Sections 2308.002(1-a), (1-b), (1-c), (7-a), and (9);
- (5) Sections 2308.103, 2308.104, and 2308.105;
- (6) Sections 2308.1521, 2308.153, 2308.154, 2308.155, 2308.1551, 2308.1555, and 2308.1556;
- (7) Section 2308.157;
- (8) The heading to Subchapter F, Chapter

No equivalent provision.

No equivalent provision.

SECTION 1.69. Same as introduced version.

SECTION 1.70. Same as introduced version.

SECTION 1.71. Same as introduced version.

ARTICLE 2. Substantially the same as introduced.

SECTION 2.01. The following provisions of the Occupations Code are repealed:

- (1) Sections 2303.056(c) and (d);
- (2) Sections 2303.1015 and 2303.1016;
- (3) Section 2303.161;
- (4) Section 2308.002(7-a);
- (5) Sections 2308.103, 2308.104, and 2308.105;
- (6) Sections 2308.1521, 2308.153, 2308.154, 2308.155, 2308.1551, 2308.1555, and 2308.1556;

2308;

(9) Sections 2308.251, 2308.252, 2308.253, and 2308.254;

(10) Sections 2308.2555, 2308.2565, and 2308.257;

(11) Subchapter G, Chapter 2308;

(12) Sections 2308.351 and 2308.352;

(13) Section 2308.401;

(14) Section 2308.403;

(15) Section 2308.451;

(16) Sections 2308.454 and 2308.455; and

(17) Sections 2308.458(b-2) and (c-1).

ARTICLE 5. TRANSITIONS; EFFECTIVE DATE

SECTION 5.01. (a) The changes in law made by this Act do not affect the validity of a proceeding pending before a court or other governmental entity on the effective date of this Act.

(b) An offense or other violation of law committed before the effective date of this Act is governed by the law in effect when the offense or violation was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense or violation was committed before the effective date of this Act if any element of the offense or violation occurred before that date.

(c) On the effective date of this Act:

(1) a license or permit issued under former Section 2303.1015, 2303.1016, 2308.1521, 2308.1551, 2308.1555, or 2308.1556, Occupations Code, expires; and

(2) the term of the booting company representative member of the advisory board under Section 2308.051, Occupations Code, expires.

(d) Except as otherwise provided by this section, the changes in law made by this Act applicable to the storage of a vehicle by a vehicle storage facility under Chapter 2303, Occupations Code, as amended by this Act, apply only to a vehicle accepted for storage by a vehicle storage facility on or after the effective date of this Act. A vehicle accepted for storage by a vehicle storage facility before the effective date of this Act is governed by the law in effect at the time the vehicle was accepted, and the former law is continued in effect for that purpose.

(e) Except as otherwise provided by this section, the changes in law made by this Act

(7) Section 2308.253(g);

(8) Sections 2308.2555 and 2308.2565;

(9) Section 2308.451;

(10) Sections 2308.454 and 2308.455; and

(11) Sections 2308.458(b-2) and (c-1).

ARTICLE 3. Same as introduced version.

SECTION 3.01. (a) The changes in law made by this Act do not affect the validity of a proceeding pending before a court or other governmental entity on the effective date of this Act.

(b) An offense or other violation of law committed before the effective date of this Act is governed by the law in effect when the offense or violation was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense or violation was committed before the effective date of this Act if any element of the offense or violation occurred before that date.

(c) On the effective date of this Act, a license or permit issued under former Section 2303.1015, 2303.1016, 2308.1521, 2308.1551, 2308.1555, or 2308.1556, Occupations Code, expires.

(d) Except as otherwise provided by this section, the changes in law made by this Act applicable to the storage of a vehicle by a vehicle storage facility under Chapter 2303, Occupations Code, as amended by this Act, apply only to a vehicle accepted for storage by a vehicle storage facility on or after the effective date of this Act. A vehicle accepted for storage by a vehicle storage facility before the effective date of this Act is governed by the law in effect at the time the vehicle was accepted, and the former law is continued in effect for that purpose.

(e) Except as otherwise provided by this section, the changes in law made by this Act

applicable to the towing or booting of a vehicle under Chapter 2308, Occupations Code, as amended by this Act, and Chapter 401, Property Code, as added by this Act, apply only to the towing or booting of a vehicle initiated on or after the effective date of this Act. The towing or booting of a vehicle initiated before the effective date of this Act is governed by the law in effect at the time the towing or booting was initiated, and the former law is continued in effect for that purpose.

(f) Sections 2303.004 and 2308.005, Occupations Code, as added by this Act, apply only to a conflict between Chapter 2303 or 2308, Occupations Code, and a municipal ordinance or charter or a contract that arises on or after the effective date of this Act. A conflict that arises before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(g) Sections 2303.157(b), Occupations Code, as amended by this Act, and 2303.157(b-1), Occupations Code, as added by this Act, apply only to an abandoned vehicle purchased on or after the effective date of this Act. An abandoned vehicle purchased before the effective date of this Act is governed by the law in effect on the date the vehicle was purchased, and the former law is continued in effect for that purpose.

(h) Section 2308.052(d), Occupations Code, as added by this Act, applies only to an absence by a member from a meeting of the Towing and Storage Advisory Board that occurs on or after the effective date of this Act. An absence by a member from a meeting of the Towing and Storage Advisory Board that occurs before the effective date of this Act is governed by the law in effect on the date the absence occurred, and the former law is continued in effect for that purpose.

(i) Section 2308.156(b), Occupations Code, as added by this Act, applies only to the transfer of a license due to the death or disability of a license holder on or after the effective date of this Act. The transfer of a license due to the death or disability of a

applicable to the towing or booting of a vehicle under Chapter 2308, Occupations Code, as amended by this Act,

apply only to the towing or booting of a vehicle initiated on or after the effective date of this Act. The towing or booting of a vehicle initiated before the effective date of this Act is governed by the law in effect at the time the towing or booting was initiated, and the former law is continued in effect for that purpose.

(f) Sections 2303.004 and 2308.005, Occupations Code, as added by this Act, apply only to a conflict between Chapter 2303 or 2308, Occupations Code, and a contract that arises on or after the effective date of this Act. A conflict that arises before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(g) Sections 2303.157(b), Occupations Code, as amended by this Act, and 2303.157(b-1), Occupations Code, as added by this Act, apply only to an abandoned vehicle purchased on or after the effective date of this Act. An abandoned vehicle purchased before the effective date of this Act is governed by the law in effect on the date the vehicle was purchased, and the former law is continued in effect for that purpose.

(h) The changes in law made by this Act to Section 2308.051(a), Occupations Code, regarding the qualifications for a member of the Towing and Storage Advisory Board do not affect the entitlement of a member serving on the board immediately before the effective date of this Act to continue to serve and function as a member of the board for the remainder of the member's term. When board vacancies occur on or after the effective date of this Act, the presiding officer of the Texas Commission of Licensing and Regulation shall appoint new members to the board in a manner that reflects the changes in law made by this Act.

(i) Section 2308.156(b), Occupations Code, as added by this Act, applies only to the transfer of a license due to the death or disability of a license holder on or after the effective date of this Act. The transfer of a license due to the death or disability of a

license holder before the effective date of this Act is governed by the law in effect on the date the license holder dies or becomes disabled, and the former law is continued in effect for that purpose.

(j) Sections 2308.163, 2308.173, and 2308.183, Occupations Code, as added by this Act, apply only to the renewal of a license issued on or after September 1, 2018. The renewal of a license issued before September 1, 2018, is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(k) The changes in law made by this Act to Section 2308.255, Occupations Code, do not apply to the booting of a vehicle under a standing written agreement between a booting company and a parking facility owner entered into before the effective date of this Act. The booting of a vehicle under a standing written agreement entered into before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(k) The changes in law made by this Act to Section 2308.255, Occupations Code, do not apply to the booting of a vehicle under a standing written agreement between a booting company and a parking facility owner entered into before the effective date of this Act. The booting of a vehicle under a standing written agreement entered into before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5.02. This Act takes effect September 1, 2017.

license holder before the effective date of this Act is governed by the law in effect on the date the license holder dies or becomes disabled, and the former law is continued in effect for that purpose.

(j) The changes in law made by this Act to Section 2308.255, Occupations Code, do not apply to the booting of a vehicle under a standing written agreement between a booting company and a parking facility owner entered into before the effective date of this Act. The booting of a vehicle under a standing written agreement entered into before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3.02. Same as introduced version.