

By: Kuempel

H.B. No. 2508

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the licensing and regulation of tow truck companies,
3 tow truck operators, vehicle storage facilities, and vehicle
4 storage facility employees, the regulation of parking facilities
5 and parking facility owners, and the elimination of required state
6 licensing for vehicle booting companies and operators; authorizing
7 fee increases.

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

9 ARTICLE 1. LICENSING AND REGULATION OF TOWING, BOOTING, AND
10 VEHICLE STORAGE

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

14 (1) "Abandoned nuisance vehicle" means a motor vehicle
15 that is[+]

16 [~~(A) at least 10 years old, and~~

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

19 (4-a) "Incident management scene" means the location
20 on a public or private roadway or right-of-way of a traffic accident
21 or incident requiring services, equipment, repair, or cleanup to
22 return the location to its intended use.

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

24 (A) named as the purchaser or transferee in the

1 certificate of title issued for the vehicle under Chapter 501,
2 Transportation Code, or Chapter 31, Parks and Wildlife Code, as
3 applicable;

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

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

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

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

14 (7) "Vehicle" means:

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

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

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

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

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

1 SECTION 1.02. Section 2303.003(a), Occupations Code, is
2 amended to read as follows:

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

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

10 Sec. 2303.004. MUNICIPAL LAW OR GOVERNMENTAL CONTRACT
11 CONTROLS. Unless specifically provided otherwise, this chapter
12 does not control over:

13 (1) a municipal ordinance or charter; or

14 (2) a contract with a governmental entity to provide
15 services for incident management towing, as defined by Section
16 2308.002.

17 SECTION 1.04. Section 2303.051, Occupations Code, is
18 amended to read as follows:

19 Sec. 2303.051. GENERAL POWERS AND DUTIES [RULEMAKING:
20 LICENSE REQUIREMENTS]. The executive director or commission, as
21 appropriate, may take action necessary to administer and enforce
22 [shall adopt rules that:

23 [(1) establish the requirements for a person to be
24 licensed to operate a vehicle storage facility to ensure that the
25 facility maintains adequate standards for the care of stored
26 vehicles,

27 [(2) relate to the administrative sanctions that may

1 ~~be imposed on a person licensed under this chapter,~~

2 [~~(3) govern the administration of~~] this chapter.

3 SECTION 1.05. Subchapter B, Chapter 2303, Occupations Code,
4 is amended by adding Section 2303.0511 to read as follows:

5 Sec. 2303.0511. RULES; DENIAL OF CERTAIN APPLICATIONS;
6 STANDARDS OF CONDUCT. (a) The commission shall adopt rules for the
7 licensing of a person to operate a vehicle storage facility.

8 (b) The commission shall adopt rules for the denial of a
9 license application if the applicant, a partner, principal,
10 officer, or general manager of the applicant, or another potential
11 license holder of the license for which the application is made has:

12 (1) before the date of the application, been convicted
13 of or has pleaded guilty or nolo contendere to:

14 (A) a felony; or

15 (B) a misdemeanor punishable by confinement in
16 jail or by a fine in an amount that exceeds \$500;

17 (2) violated an order of the commission or executive
18 director, including an order for sanctions or administrative
19 penalties;

20 (3) failed to submit a license fee or permit bond in an
21 amount established by the commission; or

22 (4) knowingly submitted false or incomplete
23 information on the application.

24 (c) The commission by rule shall adopt standards of conduct
25 for license holders under this chapter.

26 SECTION 1.06. The heading to Section 2303.053, Occupations
27 Code, is amended to read as follows:

1 Sec. 2303.053. RULES REGARDING PAYMENT OF FEE TO
2 DEPARTMENT.

3 SECTION 1.07. Section 2303.053(a), Occupations Code, is
4 amended to read as follows:

5 (a) The commission may adopt rules regarding the method of
6 payment of a fee to the department under this chapter.

7 SECTION 1.08. The heading to Section 2303.056, Occupations
8 Code, is amended to read as follows:

9 Sec. 2303.056. PERIODIC ~~[AND RISK-BASED]~~ INSPECTIONS.

10 SECTION 1.09. Section 2303.058, Occupations Code, is
11 amended to read as follows:

12 Sec. 2303.058. ADVISORY BOARD. The Towing and [7]
13 Storage~~[, and Boating]~~ Advisory Board under Chapter 2308 shall
14 advise the commission in adopting vehicle storage rules under this
15 chapter.

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

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

21 (1) ~~[the applicant knowingly supplied false or~~
22 ~~incomplete information on the application,~~

23 ~~[(2) in the three years preceding the date of~~
24 ~~application, the applicant, a partner, principal, or officer of the~~
25 ~~applicant, or the general manager of the applicant, was convicted~~
26 ~~of:~~

27 ~~[(A) a felony, or~~

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

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

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

8 SECTION 1.11. Section 2303.104(b), Occupations Code, is
9 amended to read as follows:

10 (b) The notice must state the reason for the department's
11 decision and that the applicant is entitled to a hearing before the
12 State Office of Administrative Hearings under Section 51.354
13 [department under Subchapter E].

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

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

22 (d) A notice under this section must:

23 (1) be correctly addressed;

24 (2) be sent with [~~carry~~] sufficient postage attached
25 or paid; and

26 (3) be sent:

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

1 or

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

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

5 (1) given on:

6 (A) the date indicated on the postmark; or

7 (B) the electronic filing date acknowledged by an
8 electronic audit trail by the United States Postal Service or its
9 agent; and

10 (2) [~~to be~~] timely filed if:

11 (A) [~~(1)~~] the postmark or electronic filing date
12 indicates that the notice was mailed within the period described by
13 Subsection (a) or (b), as applicable; or

14 (B) [~~(2)~~] the notice was published as provided by
15 Section 2303.152.

16 SECTION 1.13. Section 2303.1511(a), Occupations Code, is
17 amended to read as follows:

18 (a) A vehicle storage facility accepting a vehicle that is
19 towed under Chapter 2308 [~~this chapter~~] shall, within two hours
20 after receiving the vehicle, report to the local law enforcement
21 agency with jurisdiction over the area from which the vehicle was
22 towed:

23 (1) a general description of the vehicle;

24 (2) the state and number of the vehicle's license
25 plate, if any;

26 (3) the vehicle identification number of the vehicle,
27 if it can be ascertained;

1 (4) the location from which the vehicle was towed; and

2 (5) the name and location of the vehicle storage
3 facility where the vehicle is being stored.

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

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

12 (1) the vehicle is registered in another state;

13 (2) the operator of the storage facility submits to
14 the governmental entity with which the vehicle is registered a
15 written request, including an electronic request, for information
16 relating to the identity of the registered owner and each [~~any~~]
17 lienholder of record;

18 (3) the identity of the registered owner cannot be
19 determined;

20 (4) the registration does not contain an address for
21 the registered owner; or

22 (5) the operator of the storage facility cannot
23 reasonably determine the identity and address of each recorded
24 lienholder.

25 (b) The written or electronic request must:

26 (1) be correctly addressed;

27 (2) be sent with [~~carry~~] sufficient postage attached

1 or paid; and

2 (3) be sent:

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

4 or

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

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

13 (1) the vehicle does not display a license plate or a
14 vehicle inspection certificate indicating the state of
15 registration;

16 (2) the identity of the registered owner cannot
17 reasonably be determined by the operator of the storage facility;
18 or

19 (3) the operator of the storage facility cannot
20 reasonably determine the identity and address of each recorded
21 lienholder.

22 SECTION 1.15. Section [2303.154](#), Occupations Code, is
23 amended to read as follows:

24 Sec. 2303.154. SECOND NOTICE; CONSENT TO SALE. (a) [~~If a~~
25 ~~vehicle is not claimed by a person permitted to claim the vehicle or~~
26 ~~a law enforcement agency has not taken an action in response to a~~
27 ~~notice under Section [683.031\(c\)](#), Transportation Code, before the~~

1 ~~15th day after the date notice is mailed or published under Section~~
2 ~~2303.151 or 2303.152, the operator of the vehicle storage facility~~
3 ~~shall send a second notice to the registered owner and the primary~~
4 ~~lienholder of the vehicle.~~

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

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

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

24 (2) has not taken custody of the vehicle; or

25 (3) has not responded to the report.

26 (c) Notice under this section must be sent by certified
27 mail, return receipt requested, or electronic certified mail,

1 electronic return receipt with electronic delivery confirmation
2 requested, and include:

- 3 (1) the information listed in Section 2303.153(a);
4 (2) a statement of the right of the facility to dispose
5 of the vehicle under Section 2303.157; and

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

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

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

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

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

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

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

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

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

25 (b) The facility may:

26 (1) notify the Texas Department of Motor Vehicles
27 [~~department~~] that notices under Chapter 683, Transportation Code,

1 have been provided and shall pay a fee of \$10 to the Texas
2 Department of Motor Vehicles [~~department~~]; or

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

6 SECTION 1.17. Section 2303.155, Occupations Code, is
7 amended by amending Subsection (a) and adding Subsections (h) and
8 (i) to read as follows:

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

12 (1) [~~(A)~~] owned by a governmental entity; and
13 (2) [~~(B)~~] used to store or park at least 10 vehicles
14 each year.

15 (h) The commission shall biennially:

16 (1) adjust fees under this section according to the
17 percentage increase or decrease, if any, in the Consumer Price
18 Index for Urban Wage Earners and Clerical Workers (CPI-W) published
19 by the Bureau of Labor Statistics of the United States Department of
20 Labor;

21 (2) notify vehicle storage facilities licensed under
22 this chapter of the adjustment; and

23 (3) allow a reasonable period for implementation of
24 the adjustment.

25 (i) If a fee is decreased under Subsection (h), the operator
26 of a vehicle storage facility or governmental vehicle storage
27 facility shall begin charging the new fee amount on the effective

1 date of the decrease. If a fee is increased, the operator may begin
2 charging the new amount at any time on or after the effective date
3 of the increase.

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

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

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

17 SECTION 1.19. Section 2303.157, Occupations Code, is
18 amended by amending Subsections (a) and (b) and adding Subsections
19 (a-1) and (b-1) to read as follows:

20 (a) The operator of a vehicle storage facility may dispose
21 of a vehicle for which the second notice is given under Section
22 2303.154(b) or (d) [~~2303.154~~] if, before the 30th day after the date
23 notice is mailed or published, the vehicle is not:

24 (1) claimed by a person entitled to claim the vehicle;
25 or

26 (2) taken into custody by a law enforcement agency
27 under Chapter 683, Transportation Code.

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

4 (1) waives all rights and interests in the vehicle;
5 and

6 (2) consents to the sale of the vehicle at a public
7 sale.

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

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

18 (1) takes title to the vehicle free and clear of all
19 liens and claims of ownership;

20 (2) shall receive an auction sales receipt from the
21 vehicle storage facility; and

22 (3) is entitled to register the vehicle and receive a
23 certificate of title under Chapter 501, Transportation Code, or
24 Chapter 31, Parks and Wildlife Code, as applicable.

25 SECTION 1.20. Sections 2303.159(a) and (a-1), Occupations
26 Code, are amended to read as follows:

27 (a) The operator of a vehicle storage facility shall accept

1 each of the following forms of payment for any charge associated
2 with delivery or storage of a vehicle:

3 (1) cash;

4 (2) debit card; and

5 (3) credit card, if the credit card is issued by:

6 (A) a financial institution chartered by a state
7 or the federal government; or

8 (B) a nationally recognized credit organization
9 approved by the department.

10 (a-1) The operator of a vehicle storage facility shall
11 conspicuously post or electronically display a sign that states:
12 "This vehicle storage facility must accept payment by cash, credit
13 card, and debit card for any fee or charge associated with delivery
14 or storage of a vehicle." The operator of a vehicle storage
15 facility may not refuse to release a vehicle based on the inability
16 of the facility to accept payment by debit card or credit card of a
17 fee or charge associated with delivery or storage of the vehicle
18 unless the operator, through no fault of the operator, is unable to
19 accept the debit card or credit card because of a power outage or a
20 machine malfunction.

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

23 Sec. 2303.160. RELEASE OF VEHICLES TO VEHICLE OWNER.

24 SECTION 1.22. Sections 2303.160(b) and (c), Occupations
25 Code, are amended to read as follows:

26 (b) A vehicle storage facility shall release a vehicle to an
27 owner of the vehicle if the owner:

1 (1) presents:

2 (A) valid photo identification issued by this
3 state, another state, a federal agency, or a foreign government;
4 and

5 (B) proof of ownership or right of possession or
6 control of vehicle, including [~~must accept~~] evidence of financial
7 responsibility [~~, as~~] required by Section 601.051, Transportation
8 Code; and

9 (2) pays the fees and charges for services regulated
10 under this chapter and Chapter 2308, including charges for an
11 incident management tow, as defined by Section 2308.002 [~~, as an~~
12 ~~additional form of identification that establishes ownership or~~
13 ~~right of possession or control of the vehicle)].~~

14 (c) A [~~Subsection (b) does not require a~~] vehicle storage
15 facility may require other documentation as required by a municipal
16 ordinance, law enforcement agency, or governmental agency under
17 which the tow was authorized [~~to release a vehicle to the owner or~~
18 ~~operator of the vehicle if the owner or operator of the vehicle does~~
19 ~~not:~~

20 ~~[(1) pay the charges for services regulated under this~~
21 ~~chapter or Chapter 2308, including charges for an incident~~
22 ~~management tow, as defined by Section 2308.002, and~~

23 ~~[(2) present valid photo identification issued by this~~
24 ~~state, another state, a federal agency, or a foreign government)].~~

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

27 Sec. 2303.1601. ACCEPTANCE OF VEHICLES FROM AND RELEASE OF

1 VEHICLES TO LICENSED TOWING OPERATORS. (a) A vehicle storage
2 facility may accept towed vehicles only from licensed towing
3 operators.

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

6 (1) the towing operator:

7 (A) is licensed under Chapter 2308; and

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

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

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

15 SUBCHAPTER E. RIGHTS OF OWNERS AND OPERATORS OF STORED VEHICLES

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

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

1 (c) A vehicle storage facility that fails to furnish to the
2 owner or operator of the vehicle at the time of payment the name,
3 address, and telephone number of the parking facility owner or law
4 enforcement agency that authorized the towing of the vehicle is
5 liable for the costs of the vehicle's storage if the court, after a
6 hearing, does not find probable cause for the towing and storage of
7 the vehicle.

8 Sec. 2303.202. CONTENTS OF NOTICE. The notice under
9 Section 2303.201 must include:

10 (1) a statement of:

11 (A) the vehicle owner's right to submit a request
12 within 14 days for a court hearing to determine whether probable
13 cause existed to tow the vehicle;

14 (B) the information that a request for a hearing
15 must contain;

16 (C) the amount of any filing fee for the hearing;
17 and

18 (D) the vehicle owner's right to request a
19 hearing in any justice court in the county from which the vehicle
20 was towed;

21 (2) the name, address, and telephone number of the
22 towing company that towed the vehicle;

23 (3) the name, address, telephone number, and county of
24 the vehicle storage facility in which the vehicle is stored;

25 (4) the name, street address, including city, state,
26 and zip code, and telephone number of the person, parking facility
27 owner, or law enforcement agency that authorized the towing of the

1 vehicle; and

2 (5) either:

3 (A) the name, address, and telephone number of
4 each justice court in the county from which the vehicle was towed;
5 or

6 (B) the address of an Internet website maintained
7 by the Office of Court Administration of the Texas Judicial System
8 that contains the name, address, and telephone number of each
9 justice court in that county.

10 Sec. 2303.203. HEARING. A hearing referenced in a notice
11 given under this subchapter is governed by Subchapter J, Chapter
12 2308.

13 SECTION 1.25. Section 2303.302(a), Occupations Code, is
14 amended to read as follows:

15 (a) A person commits an offense if the person [~~+~~
16 [~~(1)~~] violates the licensing requirements of this
17 chapter [~~, or~~
18 [~~(2) employs an individual who does not hold an~~
19 ~~appropriate license required by this chapter~~].

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

22 (1) "Advisory board" means the Towing and [~~7~~] Storage
23 [~~and Booting~~] Advisory Board.

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

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

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

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

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

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

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

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

25 ~~[(C) a property owner having an exclusive right~~
26 ~~under a dedicatory instrument, as that term is defined in Section~~
27 ~~202.001, Property Code, to use a parking space].~~

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

5 (14) "Vehicle" means a:

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

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

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

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

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

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

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

27 (E) who is a lienholder holding an affidavit of

1 repossession and entitled to repossess the vehicle.

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

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

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

- 11 (1) a municipal ordinance or charter; or
12 (2) a contract with a governmental entity to provide
13 incident management tow service.

14 SECTION 1.28. The heading to Subchapter B, Chapter 2308,
15 Occupations Code, is amended to read as follows:

16 SUBCHAPTER B. ADVISORY BOARD; POWERS AND DUTIES OF DEPARTMENT AND
17 COMMISSION

18 SECTION 1.29. The heading to Section 2308.051, Occupations
19 Code, is amended to read as follows:

20 Sec. 2308.051. TOWING AND [~~7~~] STORAGE [~~7~~ ~~AND~~ ~~BOOTING~~]
21 ADVISORY BOARD.

22 SECTION 1.30. Section 2308.051(a), Occupations Code, as
23 amended by Chapters 457 (H.B. 2548) and 845 (S.B. 2153), Acts of the
24 81st Legislature, Regular Session, 2009, is reenacted and amended
25 to read as follows:

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

1 approval of the commission:

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

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

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

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

10 (5) one parking facility owner;

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

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

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

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

18 (9) one public member.

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

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

24 SECTION 1.32. Section 2308.057(a), Occupations Code, is
25 amended to read as follows:

26 (a) The commission shall adopt rules for permitting tow
27 trucks and licensing towing operators and [✓] towing companies [✓]

1 ~~booting companies, and boot operators~~]. The commission may adopt
2 different rules applicable to each type of permit or license.

3 SECTION 1.33. Section 2308.059, Occupations Code, is
4 amended to read as follows:

5 Sec. 2308.059. PERIODIC [~~AND RISK-BASED~~] INSPECTIONS. (a)
6 The department may enter and inspect at any time during business
7 hours:

8 (1) the place of business of any person regulated
9 under this chapter; or

10 (2) any place in which the department has reasonable
11 cause to believe that a license or permit holder is in violation of
12 this chapter or in violation of a rule or order of the commission or
13 executive director.

14 (b) [~~The department shall conduct additional inspections~~
15 ~~based on a schedule of risk-based inspections using the following~~
16 ~~criteria:~~

17 [~~(1) the type and nature of the towing company or~~
18 ~~operator;~~

19 [~~(2) the inspection history;~~

20 [~~(3) any history of complaints involving the towing~~
21 ~~company or operator; and~~

22 [~~(4) any other factor determined by the commission by~~
23 ~~rule.~~

24 [~~(c) The towing company shall pay a fee for each risk-based~~
25 ~~inspection performed under this section. The commission by rule~~
26 ~~shall set the amount of the fee.~~

27 [~~(d)~~] In conducting an inspection under this section, the

1 department may inspect a vehicle, a facility, business records, or
2 any other place or thing reasonably required to enforce this
3 chapter or a rule or order adopted under this chapter.

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

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

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

11 (1) register with the department; and

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

14 SECTION 1.35. The heading to Subchapter C, Chapter 2308,
15 Occupations Code, is amended to read as follows:

16 SUBCHAPTER C. GENERAL [~~TOW TRUCK~~] PERMIT PROVISIONS [~~REQUIREMENTS~~]

17 SECTION 1.36. Section 2308.101, Occupations Code, is
18 amended to read as follows:

19 Sec. 2308.101. PERMIT REQUIRED. A tow truck may not be used
20 for consent towing or nonconsent towing on a public roadway in this
21 state unless an appropriate permit has been issued for the tow truck
22 under this chapter [~~subchapter~~]. Each tow truck requires a
23 separate permit.

24 SECTION 1.37. Section 2308.102(a), Occupations Code, is
25 amended to read as follows:

26 (a) An applicant for a permit under this chapter
27 [~~subchapter~~] must submit to the department:

- 1 (1) a completed application on a form prescribed by
2 the executive director;
- 3 (2) evidence of insurance or financial responsibility
4 required under this chapter [~~subchapter~~];
- 5 (3) the required fees; and
- 6 (4) any other information required by the executive
7 director.

8 SECTION 1.38. Section 2308.106(a), Occupations Code, is
9 amended to read as follows:

10 (a) The department shall issue a permit under this chapter
11 [~~subchapter~~] to an applicant who meets the requirements for a
12 permit. The department may deny an application if the applicant has
13 had a permit revoked under this chapter.

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

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

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

21 ~~[(2) show the type of permit issued,~~

22 ~~[(3) show the vehicle unit number,~~

23 ~~[(4) show the vehicle identification number, and~~

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

26 (b) The department shall issue a cab card when the
27 department issues or renews a permit under this chapter

1 ~~[subchapter].~~

2 (e) If the department determines that the cab card system
3 described by Subsections (a) through (c) is not an efficient means
4 of enforcing this chapter ~~[subchapter]~~, the commission ~~[executive~~
5 ~~director]~~ by rule may adopt an alternative method that is
6 accessible by law enforcement personnel in the field and provides
7 for the enforcement of the permit requirements of this chapter
8 ~~[subchapter].~~

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

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

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

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

17 SECTION 1.41. Sections 2308.110(a) and (c), Occupations
18 Code, are amended to read as follows:

19 (a) A permit holder shall maintain liability insurance for
20 each tow truck according to the requirements under this chapter
21 ~~[subchapter].~~

22 (c) An applicant or permit holder must file with the
23 department evidence of insurance as required by this chapter
24 ~~[subchapter].~~

25 SECTION 1.42. The heading to Subchapter D, Chapter 2308,
26 Occupations Code, is amended to read as follows:

27 SUBCHAPTER D. GENERAL LICENSE PROVISIONS ~~[REQUIREMENTS]~~

1 SECTION 1.43. Section 2308.151, Occupations Code, is
2 amended to read as follows:

3 Sec. 2308.151. LICENSE REQUIRED. Unless the person holds
4 an appropriate license under this chapter [~~subchapter~~], a person
5 may not:

- 6 (1) perform towing operations; or
- 7 (2) operate a towing company [~~+~~
- 8 [~~(3) perform booting operations; or~~
- 9 [~~(4) operate a booting company~~].

10 SECTION 1.44. Section 2308.152, Occupations Code, is
11 amended to read as follows:

12 Sec. 2308.152. GENERAL LICENSE APPLICATION REQUIREMENTS.
13 An applicant for a license under this chapter [~~subchapter~~] must
14 submit to the department:

- 15 (1) a completed application on a form prescribed by
16 the executive director;
- 17 (2) the required fees; and
- 18 (3) any other information required by commission rule.

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

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

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

1 SECTION 1.46. Section 2308.158, Occupations Code, is
2 amended to read as follows:

3 Sec. 2308.158. ALCOHOL AND DRUG TESTING OF TOWING
4 OPERATORS. (a) A towing company shall establish an alcohol and
5 drug testing policy for towing operators. A towing company that
6 establishes an alcohol and drug testing policy under this
7 subsection may adopt:

8 (1) the model alcohol and drug testing policy adopted
9 by the commission;

10 (2) ~~[or may use]~~ another alcohol and drug testing
11 policy that the department determines is at least as stringent as
12 the policy adopted by the commission; or

13 (3) the alcohol and drug testing policy prescribed by
14 49 C.F.R. Part 40.

15 (b) The commission by rule shall adopt a model alcohol and
16 drug testing policy for use by a towing company. The model alcohol
17 and drug testing policy must be designed to ensure the safety of the
18 public through appropriate alcohol and drug testing and to protect
19 the rights of employees. The model alcohol and drug testing policy
20 must [+]

21 ~~[(1) require at least one scheduled drug test each~~
22 ~~year for each towing operator, and~~

23 ~~[(2)]~~ authorize random, unannounced alcohol and drug
24 testing for towing operators.

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

27 (a) A license issued under this chapter ~~[subchapter]~~ is

1 valid for one year. The department may adopt a system under which
2 licenses expire at different times during the year.

3 (c) A license holder may renew a license issued under this
4 chapter by:

5 (1) submitting an application on a form prescribed by
6 the executive director;

7 (2) submitting evidence demonstrating compliance with
8 the requirements for the license type as required by this chapter or
9 commission rule;

10 (3) paying a renewal fee; and

11 (4) completing continuing education as required by
12 Section 2308.163, 2308.173, or 2308.183, as applicable [~~2308.157~~].

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

15 SUBCHAPTER D-1. INCIDENT MANAGEMENT TOWING

16 Sec. 2308.161. REQUIREMENTS FOR INCIDENT MANAGEMENT TOWING
17 PERMIT. (a) An incident management towing permit is required for a
18 tow truck used to perform any nonconsent tow initiated by a peace
19 officer, including a tow authorized under Section 545.3051,
20 Transportation Code.

21 (b) To be eligible for an incident management towing permit,
22 an applicant must submit evidence that:

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

26 (2) the applicant maintains at least \$500,000 of
27 liability insurance coverage for the tow truck; and

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

3 (c) A tow truck permitted under this section may also be
4 used for private property towing and consent towing.

5 (d) When a tow truck is used for a nonconsent tow initiated
6 by a peace officer under Section 545.3051, Transportation Code, the
7 permit holder is an agent of law enforcement and is subject to
8 Section 545.3051(e), Transportation Code.

9 Sec. 2308.162. INCIDENT MANAGEMENT TOWING OPERATOR'S
10 LICENSE. (a) An incident management towing operator's license is
11 required to operate a tow truck permitted under Section 2308.161.

12 (b) An applicant for an incident management towing
13 operator's license must:

14 (1) hold a valid driver's license issued by a state in
15 the United States; and

16 (2) be certified by a program approved by the
17 department.

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

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

1 department.

2 SUBCHAPTER D-2. PRIVATE PROPERTY TOWING

3 Sec. 2308.171. REQUIREMENTS FOR PRIVATE PROPERTY TOWING

4 PERMIT. (a) A private property towing permit is required for a tow
5 truck used to perform a nonconsent tow authorized by a parking
6 facility owner under this chapter or Chapter 401, Property Code.

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

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

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

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

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

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

20 (a) A private property towing operator's license is required to
21 operate a tow truck permitted under Section 2308.171.

22 (b) An applicant for a private property towing operator's
23 license must:

24 (1) hold a valid driver's license issued by a state in
25 the United States; and

26 (2) be certified by a program approved by the
27 department.

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

7 SUBCHAPTER D-3. CONSENT TOWING

8 Sec. 2308.181. REQUIREMENTS FOR CONSENT TOWING PERMIT. (a)
9 A consent towing permit is required for a tow truck used to perform
10 a consent tow authorized by the vehicle owner.

11 (b) To be eligible for a consent towing permit, an applicant
12 must submit evidence that:

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

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

18 (c) A tow truck permitted under this section may not be used
19 for nonconsent towing, including incident management towing and
20 private property towing.

21 Sec. 2308.182. CONSENT TOWING OPERATOR'S LICENSE. (a) A
22 consent towing operator's license is required to operate a tow
23 truck permitted under Section 2308.181.

24 (b) An applicant for a consent towing operator's license
25 must hold a valid driver's license issued by a state in the United
26 States.

27 Sec. 2308.183. CONTINUING EDUCATION REQUIREMENTS FOR

1 CONSENT TOWING OPERATOR. To renew a consent towing operator's
2 license, a license holder must complete a four-hour professional
3 development course relating to consent towing that is approved and
4 administered by the department.

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

7 (d) A political subdivision may not require a person who
8 holds a driver's license or commercial driver's license to obtain a
9 license or permit for operating a tow truck unless the person
10 performs nonconsent tows in the territory of the political
11 subdivision. A fee charged for a license or permit may not exceed
12 \$50 [~~\$15~~].

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

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

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

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

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

23 (A) established under Section 2308.0575; or

24 (B) authorized by a political subdivision; or

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

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

4 (1) for a service related to a private property tow
5 that is not included in the fees established under Section
6 2308.0575; or

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

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

11 (a) A municipality may adopt an ordinance regulating [~~that~~
12 ~~is identical to the~~] booting companies and operators [~~provisions in~~
13 ~~this chapter or that imposes additional requirements that exceed~~
14 ~~the minimum standards of the booting provisions in this chapter but~~
15 ~~may not adopt an ordinance that conflicts with the booting~~
16 ~~provisions in this chapter~~].

17 SECTION 1.53. Section 2308.255, Occupations Code, is
18 transferred to Subchapter I, Chapter 2308, Occupations Code,
19 redesignated as Section 2308.4011, Occupations Code, and amended to
20 read as follows:

21 Sec. 2308.4011 [~~2308.255~~]. TOWING COMPANY'S [~~OR BOOT~~
22 ~~OPERATOR'S~~] AUTHORITY TO TOW [~~REMOVE AND STORE OR BOOT~~]
23 UNAUTHORIZED VEHICLE FROM PARKING FACILITY. (a) A towing company
24 [~~that is insured as provided by Subsection (c)~~] may, without the
25 consent of an owner or operator of an unauthorized vehicle, tow
26 [~~remove and store~~] the vehicle to [~~at~~] a vehicle storage facility at
27 the expense of the owner or operator of the vehicle if[+]

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

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

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

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

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

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

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

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

22 (1) this chapter;

23 (2) a municipal ordinance that complies with Section
24 2308.208; or

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

27 (c) ~~[Only a towing company that is insured against liability~~

1 ~~for property damage incurred in towing a vehicle may remove and~~
2 ~~store an unauthorized vehicle under this section.~~

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

7 (1) requests that the towing company tow ~~[remove and~~
8 ~~store or that the boot operator boot]~~ the specific vehicle; or

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

12 SECTION 1.54. The heading to Section 2308.353, Occupations
13 Code, is amended to read as follows:

14 Sec. 2308.353. TOWING ~~[REMOVAL]~~ UNDER GOVERNMENTAL
15 ENTITY'S AUTHORITY OF UNAUTHORIZED VEHICLE PARKED IN RIGHT-OF-WAY.

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

18 (b) A sign under Subsection (a)(2) must:

19 (1) state that a vehicle parked in the right-of-way
20 may be towed at the expense of the owner or operator of the vehicle;

21 (2) be placed facing the public roadway:

22 (A) on the parking facility owner's property not
23 more than two feet from the common boundary line; and

24 (B) at intervals so that no point in the boundary
25 line is less than 25 feet from a sign posted under this subsection;
26 and

27 (3) in all other respects comply with Subchapter C,

1 Chapter 401, Property Code [G].

2 (c) After signs have been posted under Subsection (b), the
3 parking facility owner may have ~~[or]~~ a towing company tow ~~[may~~
4 ~~remove]~~ an unauthorized vehicle from the right-of-way subject to
5 the governmental entity's written permission given under
6 Subsection (a)(2).

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

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

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

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

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

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

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

26 (c) In addition to the authority granted under Subsection
27 (a) and to aid in the enforcement of an ordinance regulating the

1 parking of vehicles, a municipality with a population of 1.9
2 million or more may authorize a designated employee to request the
3 removal of a vehicle parked illegally in an area designated as a
4 tow-away zone in a residential area where on-street parking is
5 regulated by the ordinance.

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

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

13 SUBCHAPTER I. REGULATION OF TOWING COMPANIES [~~BOOTING COMPANIES,~~
14 ~~AND PARKING FACILITY OWNERS~~]

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

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

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

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

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

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

27 [~~(1)~~] from which the towing company for compensation

1 tows [~~removes~~] unauthorized vehicles [~~, or~~

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

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

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

9 Sec. 2308.404. CIVIL LIABILITY OF TOWING COMPANY [~~, BOOTING~~
10 ~~COMPANY, OR PARKING FACILITY OWNER~~] FOR VIOLATION OF CHAPTER. (a)
11 A towing company that [~~, booting company, or parking facility owner~~
12 ~~who~~] violates this chapter is liable to the owner or operator of the
13 vehicle that is the subject of the violation for:

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

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

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

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

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

3 Sec. 2308.452. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO
4 HEARING. The owner or operator of a vehicle that has been towed to
5 ~~[removed and placed in]~~ a vehicle storage facility ~~[or booted]~~
6 without the consent of the owner or operator of the vehicle is
7 entitled to a hearing on whether probable cause existed for the tow
8 ~~[removal and placement or booting]~~.

9 SECTION 1.61. Section 2308.453, Occupations Code, is
10 amended to read as follows:

11 Sec. 2308.453. JURISDICTION. A hearing under this chapter
12 shall be in any justice court in[+]

13 ~~[(1)]~~ the county from which the motor vehicle was
14 towed [~~+~~or

15 ~~[(2) for booted vehicles, the county in which the~~
16 ~~parking facility is located]~~.

17 SECTION 1.62. Sections 2308.456(a), (b), and (c),
18 Occupations Code, are amended to read as follows:

19 (a) Except as provided by Subsections (c) and (c-1), a
20 person entitled to a hearing under this chapter must deliver a
21 written request for the hearing to the court before the 14th day
22 after the date the vehicle was towed and stored ~~[removed and placed]~~
23 in the vehicle storage facility ~~[or booted]~~, excluding Saturdays,
24 Sundays, and legal holidays.

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

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

1 (2) the location from which the vehicle was towed
2 [~~removed or in which the vehicle was booted~~];

3 (3) the date when the vehicle was towed [~~removed or~~
4 ~~booted~~];

5 (4) the name, address, and telephone number of the
6 person or law enforcement agency that authorized the tow [~~removal~~
7 ~~or booting~~];

8 (5) the name, address, and telephone number of the
9 vehicle storage facility in which the vehicle was stored [~~placed~~];

10 (6) the name, address, and telephone number of the
11 towing company that towed [~~removed~~] the vehicle [~~or of the booting~~
12 ~~company that installed a boot on the vehicle~~];

13 (7) a copy of any receipt or notification that the
14 owner or operator received from the towing company [~~, the booting~~
15 ~~company,~~] or the vehicle storage facility; and

16 (8) if the vehicle was towed [~~removed~~] from [~~or booted~~
17 ~~in~~] a parking facility:

18 (A) one or more photographs that show the
19 location and text of any sign posted at the facility restricting
20 parking of vehicles; or

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

23 (c) If notice was not given under Subchapter E, Chapter 2303
24 [~~Section 2308.454~~], the 14-day deadline for requesting a hearing
25 under Subsection (a) does not apply, and the owner or operator of
26 the vehicle may deliver a written request for a hearing at any time.

27 SECTION 1.63. Sections 2308.458(b), (c), and (e),

1 Occupations Code, are amended to read as follows:

2 (b) The court shall notify the person who requested the
3 hearing [~~for a towed vehicle~~], the parking facility owner or law
4 enforcement agency that authorized the towing [~~removal~~] of the
5 vehicle, the towing company, and the vehicle storage facility in
6 which the vehicle was stored [~~placed~~] of the date, time, and place
7 of the hearing in a manner provided by Rule 21a, Texas Rules of
8 Civil Procedure. The notice of the hearing to the towing company
9 and the parking facility owner or law enforcement agency that
10 authorized the towing [~~removal~~] of the vehicle must include a copy
11 of the request for hearing. Notice to the law enforcement agency
12 that authorized the towing [~~removal~~] of the vehicle is sufficient
13 as notice to the political subdivision in which the law enforcement
14 agency is located.

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

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

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

23 (3) whether a storage [~~towing~~] charge imposed or
24 collected in connection with the storage [~~removal or placement~~] of
25 the vehicle in a vehicle storage facility was authorized or was
26 greater than the amount authorized under Chapter 2303 [~~Section~~
27 2308.203]; or

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

4 (e) The court may award:

5 (1) court costs [~~and attorney's fees~~] to the
6 prevailing party;

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

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

14 (4) reimbursement of fees paid for vehicle towing
15 and [~~7~~] storage [~~7, or removal of a boot~~].

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

18 Sec. 2308.4581. PAYMENT OF COST OF TOWING AND STORAGE OF
19 VEHICLE. (a) If after a hearing held under this subchapter the
20 court finds that a person or law enforcement agency authorized,
21 with probable cause, the towing and storage of a vehicle, the person
22 who requested the hearing shall pay the costs of the towing and
23 storage.

24 (b) If after a hearing held under this subchapter the court
25 does not find that a person or law enforcement agency authorized,
26 with probable cause, the towing and storage of a vehicle, the towing
27 company, vehicle storage facility, parking facility owner, or law

1 enforcement agency that authorized the tow shall:

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

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

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

13 SECTION 1.65. Section 2308.459, Occupations Code, is
14 amended to read as follows:

15 Sec. 2308.459. APPEAL. (a) An appeal from a hearing under
16 this chapter is governed by the rules of procedure applicable to
17 civil cases in justice court, except that no appeal bond may be
18 required by the court.

19 (b) If the party requesting the hearing does not participate
20 in the hearing, the party waives the right to an appeal under this
21 section.

22 SECTION 1.66. Section 2308.505(a), Occupations Code, is
23 amended to read as follows:

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

25 (1) violates an ordinance, resolution, order, rule, or
26 regulation of a political subdivision adopted under Section
27 2308.201 or[7] 2308.202 [~~7~~ ~~or~~ ~~2308.2085~~] for which the political

1 subdivision does not prescribe the penalty;

2 (2) charges or collects a fee in a political
3 subdivision that regulates the operation of tow trucks under
4 Section 2308.201 or 2308.202 [~~or booting under Section 2308.2085~~]
5 that is not authorized or is greater than the authorized amount of
6 the fee;

7 (3) [~~charges or collects a fee greater than the amount~~
8 ~~authorized under Section 2308.204;~~

9 [(4)] charges or collects a fee in excess of the amount
10 authorized [~~filed with the department~~] under Section 2308.2065
11 [~~2308.206~~];

12 (4) [(5)] violates Section 2308.205; or

13 (5) [(6)] violates a rule of the department applicable
14 to a tow truck or [(7)] towing company [~~, or booting company~~].

15 ARTICLE 2. PARKING FACILITIES AND PARKING FACILITY OWNERS

16 SECTION 2.01. The Property Code is amended by adding Title
17 16 to read as follows:

18 TITLE 16. MISCELLANEOUS RIGHTS AND DUTIES OF PROPERTY OWNERS

19 CHAPTER 401. PARKING FACILITIES AND PARKING FACILITY OWNERS

20 SUBCHAPTER A. GENERAL PROVISIONS

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

23 Sec. 401.002. DEFINITIONS. In this chapter:

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

27 (A) a restricted space on a portion of an

1 otherwise unrestricted parking facility; and

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

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

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

14 (2) "Parking facility owner" means:

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

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

22 (C) a property owner having an exclusive right
23 under a dedicatory instrument, as that term is defined in Section
24 202.001, to use a parking space.

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

27 (4) "Towing company" has the meaning assigned by

1 Section 2308.002, Occupations Code.

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

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

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

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

11 SUBCHAPTER B. UNAUTHORIZED VEHICLES AT PARKING FACILITY

12 Sec. 401.051. PROHIBITION AGAINST UNATTENDED VEHICLES IN
13 CERTAIN AREAS OF PARKING FACILITY. (a) The owner or operator of a
14 vehicle may not leave unattended on a parking facility a vehicle
15 that:

16 (1) is in or obstructs a vehicular traffic aisle,
17 entry, or exit of the parking facility;

18 (2) prevents a vehicle from exiting a parking space in
19 the facility;

20 (3) is in or obstructs a fire lane marked according to
21 Subsection (c);

22 (4) does not display the special license plates issued
23 under Section 504.201, Transportation Code, or the disabled parking
24 placard issued under Chapter 681, Transportation Code, for a
25 vehicle transporting a disabled person and that is in a parking
26 space designated for the exclusive use of a vehicle transporting a
27 disabled person; or

1 (5) is leaking a fluid that presents a hazard or threat
2 to persons or property.

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

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

14 Sec. 401.052. TOWING AND STORAGE OF UNAUTHORIZED VEHICLE.

15 (a) A parking facility owner may, without the consent of the owner
16 or operator of an unauthorized vehicle, cause the vehicle and any
17 property on or in the vehicle to be towed by a person licensed under
18 Chapter 2308, Occupations Code, and stored at a vehicle storage
19 facility operated by a person licensed under Chapter 2303,
20 Occupations Code, at the vehicle owner's or operator's expense if:

21 (1) signs that comply with Subchapter C prohibiting
22 unauthorized vehicles are located on the parking facility at the
23 time of towing and for the preceding 24 hours and remain installed
24 at the time of towing;

25 (2) the owner or operator of the vehicle has received
26 actual notice from the parking facility owner that the vehicle will
27 be towed at the vehicle owner's or operator's expense if it is in or

1 not removed from an unauthorized space;

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

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

8 (A) left in violation of Section 401.051 or
9 401.053; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 Sec. 401.053. UNATTENDED VEHICLES ON PARKING FACILITY OF
25 APARTMENT COMPLEX; TOWING AND STORAGE OF VEHICLES. (a) This
26 section applies only to a parking facility serving or adjacent to an
27 apartment complex consisting of one or more residential apartment

1 units and any adjacent real property serving the apartment complex.

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

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

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

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

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

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

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

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

27 (d) Except as provided by a contract described by Subsection

1 (e), a parking facility owner may not have a vehicle towed from the
2 parking facility merely because the vehicle does not display an
3 unexpired license plate or registration insignia issued for the
4 vehicle under Chapter 502, Transportation Code, or the vehicle
5 registration law of another state or country.

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

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

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

17 (f) This section may not be construed:

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

21 (2) to limit or restrict the enforcement of Chapter
22 683, Transportation Code.

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

27 Sec. 401.054. LIMITATION ON PARKING FACILITY OWNER'S

1 AUTHORITY TO TOW UNAUTHORIZED VEHICLE. A parking facility owner
2 may not have an unauthorized vehicle towed from the facility
3 except:

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

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

8 SUBCHAPTER C. SIGNS PROHIBITING UNAUTHORIZED VEHICLES AND

9 DESIGNATING RESTRICTED AREAS

10 Sec. 401.101. GENERAL REQUIREMENTS FOR SIGN PROHIBITING
11 UNAUTHORIZED VEHICLES. (a) Except as provided by Section 401.104
12 or 401.105, an unauthorized vehicle may not be towed under Section
13 401.052(a)(1) unless a sign prohibiting unauthorized vehicles on a
14 parking facility is:

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

17 (2) located:

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

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

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

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

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

3 (4) installed on the parking facility; and

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

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

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

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

12 (3) contains the international symbol for towing
13 vehicles;

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

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

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

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

23 Sec. 401.102. COLOR, LAYOUT, AND LETTERING HEIGHT
24 REQUIREMENTS. (a) Except as provided by Section 401.105, each sign
25 required by this chapter must comply with the color, layout, and
26 lettering height requirements of this section.

27 (b) A bright red international towing symbol, which is a

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

5 (c) The portion of the sign immediately below the
6 international towing symbol must:

7 (1) in lettering at least two inches high, contain the
8 words "Towing Enforced"; and

9 (2) consist of white letters on a bright red
10 background.

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

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

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

27 Sec. 401.104. DESIGNATION OF RESTRICTED PARKING SPACES ON

1 OTHERWISE UNRESTRICTED PARKING FACILITY. A parking facility owner
2 may designate one or more spaces as restricted parking spaces on a
3 portion of an otherwise unrestricted parking facility. Instead of
4 installing a sign at each entrance to the parking facility as
5 provided by Section 401.101(a)(2), an owner may place in the
6 designated spaces a sign that prohibits unauthorized vehicles from
7 parking in those spaces and that otherwise complies with Sections
8 401.101 and 401.102:

9 (1) at the right or left side of each entrance to a
10 designated area or group of parking spaces located on the
11 restricted portion of the parking facility; or

12 (2) at the end of a restricted parking space so that
13 the sign, the top of which must not be higher than seven feet above
14 the ground, is in front of a vehicle that is parked in the space with
15 the rear of the vehicle at the entrance of the space.

16 Sec. 401.105. INDIVIDUAL PARKING RESTRICTIONS IN
17 RESTRICTED AREA. (a) A parking facility owner who complies with
18 Sections 401.101 and 401.102 may impose further specific parking
19 restrictions in an area to which the signs apply for individual
20 spaces by installing or painting a weather-resistant sign or notice
21 on a curb, pole, post, permanent wall, or permanent barrier so that
22 the sign is in front of a vehicle that is parked in the space with
23 the rear of the vehicle at the entrance of the space.

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

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

1 person.

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

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

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

15 Sec. 401.152. TOWING OF UNAUTHORIZED VEHICLE FROM AREA
16 BETWEEN PARKING FACILITY AND PUBLIC ROADWAY. Unless prohibited by
17 a municipal ordinance, a parking facility owner may have a towing
18 company tow an unauthorized vehicle any part of which is in an area
19 described by Section 401.002(1)(B)(ii) if notice under Section
20 401.052(a)(2) or (3) is given and the owner or towing company
21 otherwise complies with this chapter.

22 SUBCHAPTER E. PARKING FACILITY OWNERS

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

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

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

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

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

14 (2) is:

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

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

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

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

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

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

4 (c) A parking facility owner who intentionally, knowingly,
5 or recklessly violates this chapter is liable to the owner or
6 operator of the vehicle that is the subject of the violation for
7 \$1,000 plus three times the amount of fees assessed in the vehicle's
8 towing or storage.

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

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

15 ARTICLE 3. CONFORMING AMENDMENTS

16 SECTION 3.01. Section [2158.001](#)(2), Occupations Code, is
17 amended to read as follows:

18 (2) "Parking facility," "parking facility owner," and
19 "vehicle" have the meanings assigned by Section [401.002](#), Property
20 [~~[2308.002](#), Occupations~~] Code.

21 SECTION 3.02. Section [503.096](#)(a), Transportation Code, is
22 amended to read as follows:

23 (a) If a person is engaged in business as a dealer in
24 violation of Section [503.021](#), a peace officer may cause a vehicle
25 that is being offered for sale by the person to be towed from the
26 location where the vehicle is being offered for sale and stored at a
27 vehicle storage facility, as defined by Section [2303.002](#)

1 [~~2308.002~~], Occupations Code.

2 SECTION 3.03. Section 683.001(2), Transportation Code, is
3 amended to read as follows:

4 (2) "Garagekeeper" means an owner or operator of a
5 storage facility or vehicle storage facility.

6 SECTION 3.04. Section 683.003, Transportation Code, is
7 amended by adding Subsection (c) to read as follows:

8 (c) To the extent of any conflict between this chapter and
9 Subchapters D and E, Chapter 2303, Occupations Code, those
10 subchapters control for a vehicle stored in a vehicle storage
11 facility.

12 ARTICLE 4. REPEALERS

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

- 15 (1) Sections 2303.056(c) and (d);
- 16 (2) Sections 2303.1015 and 2303.1016;
- 17 (3) Section 2303.161;
- 18 (4) Sections 2308.002(1-a), (1-b), (1-c), (7-a), and
19 (9);
- 20 (5) Sections 2308.103, 2308.104, and 2308.105;
- 21 (6) Sections 2308.1521, 2308.153, 2308.154, 2308.155,
22 2308.1551, 2308.1555, and 2308.1556;
- 23 (7) Section 2308.157;
- 24 (8) The heading to Subchapter F, Chapter 2308;
- 25 (9) Sections 2308.251, 2308.252, 2308.253, and
26 2308.254;
- 27 (10) Sections 2308.2555, 2308.2565, and 2308.257;

- 1 (11) Subchapter G, Chapter 2308;
- 2 (12) Sections 2308.351 and 2308.352;
- 3 (13) Section 2308.401;
- 4 (14) Section 2308.403;
- 5 (15) Section 2308.451;
- 6 (16) Sections 2308.454 and 2308.455; and
- 7 (17) Sections 2308.458(b-2) and (c-1).

8 ARTICLE 5. TRANSITIONS; EFFECTIVE DATE

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

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

19 (c) On the effective date of this Act:

20 (1) a license or permit issued under former Section
21 2303.1015, 2303.1016, 2308.1521, 2308.1551, 2308.1555, or
22 2308.1556, Occupations Code, expires; and

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

26 (d) Except as otherwise provided by this section, the
27 changes in law made by this Act applicable to the storage of a

1 vehicle by a vehicle storage facility under Chapter 2303,
2 Occupations Code, as amended by this Act, apply only to a vehicle
3 accepted for storage by a vehicle storage facility on or after the
4 effective date of this Act. A vehicle accepted for storage by a
5 vehicle storage facility before the effective date of this Act is
6 governed by the law in effect at the time the vehicle was accepted,
7 and the former law is continued in effect for that purpose.

8 (e) Except as otherwise provided by this section, the
9 changes in law made by this Act applicable to the towing or booting
10 of a vehicle under Chapter 2308, Occupations Code, as amended by
11 this Act, and Chapter 401, Property Code, as added by this Act,
12 apply only to the towing or booting of a vehicle initiated on or
13 after the effective date of this Act. The towing or booting of a
14 vehicle initiated before the effective date of this Act is governed
15 by the law in effect at the time the towing or booting was
16 initiated, and the former law is continued in effect for that
17 purpose.

18 (f) Sections 2303.004 and 2308.005, Occupations Code, as
19 added by this Act, apply only to a conflict between Chapter 2303 or
20 2308, Occupations Code, and a municipal ordinance or charter or a
21 contract that arises on or after the effective date of this Act. A
22 conflict that arises before the effective date of this Act is
23 governed by the law in effect immediately before the effective date
24 of this Act, and the former law is continued in effect for that
25 purpose.

26 (g) Sections 2303.157(b), Occupations Code, as amended by
27 this Act, and 2303.157(b-1), Occupations Code, as added by this

1 Act, apply only to an abandoned vehicle purchased on or after the
2 effective date of this Act. An abandoned vehicle purchased before
3 the effective date of this Act is governed by the law in effect on
4 the date the vehicle was purchased, and the former law is continued
5 in effect for that purpose.

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

14 (i) Section 2308.156(b), Occupations Code, as added by this
15 Act, applies only to the transfer of a license due to the death or
16 disability of a license holder on or after the effective date of
17 this Act. The transfer of a license due to the death or disability
18 of a license holder before the effective date of this Act is
19 governed by the law in effect on the date the license holder dies or
20 becomes disabled, and the former law is continued in effect for that
21 purpose.

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

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

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