

By: Kuempel

H.B. No. 3306

Substitute the following for H.B. No. 3306:

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C.S.H.B. No. 3306

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of motor vehicle towing, booting, and storage and to the elimination of required state licensing for vehicle booting companies and operators.

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

SECTION 1. Section 2303.058, Occupations Code, is amended to read as follows:

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

SECTION 2. Section 2308.002, Occupations Code, is amended by amending Subdivisions (1) and (8-a) and adding Subdivisions (5-b) and (8-b) to read as follows:

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

(5-b) "Local authority" means a state or local governmental entity authorized to regulate traffic or parking and includes:

(A) an institution of higher education; and

(B) a political subdivision, including a county, municipality, special district, junior college district, housing authority, or other political subdivision of this state.

(8-a) "Peace officer" means a person who is a peace officer under Article 2.12, Code of Criminal Procedure.

1 (8-b) "Private property tow" means any tow of a
2 vehicle authorized by a parking facility owner without the consent
3 of the owner or operator of the vehicle.

4 SECTION 3. Effective September 1, 2018, Section 2308.004,
5 Occupations Code, is amended to read as follows:

6 Sec. 2308.004. EXEMPTION. Sections 2308.151(b),
7 2308.2085, 2308.257, and 2308.258 do [~~(a) This chapter does~~] not
8 apply to:

9 (1) a person who, while exercising a statutory or
10 contractual lien right with regard to a vehicle:

11 (A) [~~(1)~~] installs or removes a boot; or

12 (B) [~~(2)~~] controls, installs, or directs the
13 installation and removal of one or more boots; or [~~-~~]

14 (2) [~~(b) This chapter does not apply to~~] a commercial
15 office building owner or manager who installs or removes a boot in
16 the building's parking facility.

17 SECTION 4. Section 2308.051(a), Occupations Code, as
18 amended by Chapters 457 (H.B. 2548) and 845 (S.B. 2153), Acts of the
19 81st Legislature, Regular Session, 2009, is reenacted and amended
20 to read as follows:

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

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

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

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

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

7 (5) one parking facility representative ~~[owner]~~;

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

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

12 (8) one representative of a member insurer, as defined
13 by Section 462.004, Insurance Code, of the Texas Property and
14 Casualty Insurance Guaranty Association who writes ~~[property and~~
15 ~~casualty insurers who write]~~ automobile insurance in this state;
16 and

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

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

20 SECTION 5. Effective September 1, 2018, Section 2308.151,
21 Occupations Code, is amended to read as follows:

22 Sec. 2308.151. LICENSE OR LOCAL AUTHORIZATION REQUIRED.

23 (a) Unless the person holds an appropriate license under this
24 subchapter, a person may not:

25 (1) perform towing operations; or

26 (2) operate a towing company. [+]

27 (b) Unless a person is authorized by a local authority under

1 Section 2308.2085, a person may not:

2 (1) [(3)] perform booting operations; or

3 (2) [(4)] operate a booting company.

4 SECTION 6. Section 2308.205(a), Occupations Code, is
5 amended to read as follows:

6 (a) A towing company that makes a nonconsent tow shall tow
7 the vehicle to a vehicle storage facility that is operated by a
8 person who holds a license to operate the facility under Chapter
9 2303, unless:

10 (1) the towing company agrees to take the vehicle to a
11 location designated by the vehicle's owner; or

12 (2) the vehicle is towed under Section 2308.259(b).

13 SECTION 7. Section 2308.2085, Occupations Code, is amended
14 to read as follows:

15 Sec. 2308.2085. LOCAL AUTHORITY REGULATION OF ~~[MUNICIPAL~~
16 ~~ORDINANCE—REGULATING]~~ BOOTING ACTIVITIES ~~[COMPANIES—AND~~
17 ~~OPERATORS]~~. (a) A local authority ~~[municipality]~~ may regulate, in
18 areas in which the entity regulates parking or traffic, [adopt an
19 ~~ordinance that is identical to the]~~ booting activities, including:

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

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

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

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

4 (b) Regulations adopted under this section must:

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

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

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

12 ~~[(c) A municipality may require booting companies to obtain a~~
13 ~~permit to operate in the municipality]~~.

14 SECTION 8. Section 2308.255, Occupations Code, is amended
15 to read as follows:

16 Sec. 2308.255. TOWING COMPANY'S [~~OR BOOT OPERATOR'S~~]
17 AUTHORITY TO TOW [~~REMOVE~~] AND STORE [~~OR BOOT~~] UNAUTHORIZED VEHICLE.

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

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

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

27 (B) the owner or operator received notice under

1 Section 2308.252(a)(2) or the parking facility owner gave notice
2 complying with Section 2308.252(a)(3); or

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

7 (A) left in violation of Section 2308.251;

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

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

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

15 (1) this chapter;

16 (2) a municipal ordinance that complies with Section
17 2308.208; or

18 (3) the direction of:

19 (A) a peace officer; or

20 (B) the owner or operator of the vehicle.

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

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

27 (1) requests that the towing company tow ~~[remove]~~ and

1 store ~~[or that the boot operator boot]~~ the specific vehicle; or

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

5 (e) When a tow truck is used for a nonconsent tow authorized
6 by a peace officer under Section 545.3051, Transportation Code, the
7 operator of the tow truck and the towing company are agents of the
8 law enforcement agency and are subject to Section 545.3051(e),
9 Transportation Code.

10 SECTION 9. Section 2308.257(b), Occupations Code, is
11 amended to read as follows:

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

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

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

18 (3) the name, address, and telephone number of the
19 booting company;

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

23 (5) the amount of the fee for removal of the boot and
24 any associated parking fees; ~~and~~

25 (6) notice of the right of a vehicle owner or vehicle
26 operator to a hearing under Subchapter J; and

27 (7) in the manner prescribed by the local authority,

notice of the procedure to file a complaint with the local authority for violation of this chapter by a boot operator.

SECTION 10. Subchapter F, Chapter 2308, Occupations Code, is amended by adding Sections 2308.258 and 2308.259 to read as follows:

Sec. 2308.258. BOOT REMOVAL. (a) A booting company responsible for the installation of a boot on a vehicle shall remove the boot not later than one hour after the time the owner or operator of the vehicle contacts the company to request removal of the boot.

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

(c) A booting company responsible for the installation of more than one boot on a vehicle may not charge a total amount for the removal of the boots that is greater than the amount of the fee for the removal of a single boot.

Sec. 2308.259. TOWING COMPANY'S AUTHORITY TO TOW VEHICLE FROM UNIVERSITY PARKING FACILITY. (a) In this section:

(1) "Special event" means a university-sanctioned, on-campus activity, including parking lot maintenance.

(2) "University" means:

(A) a public senior college or university, as defined by Section 61.003, Education Code; or

(B) a private or independent institution of higher education, as defined by Section 61.003, Education Code.

1 (b) Subject to Subsection (c), an individual designated by a
2 university may, to facilitate a special event, request that a
3 vehicle parked at a university parking facility be towed to another
4 location on the university campus.

5 (c) A vehicle may not be towed under Subsection (b) unless
6 signs complying with this section are installed on the parking
7 facility for the 72 hours preceding towing enforcement for the
8 special event and for 48 hours after the conclusion of the special
9 event.

10 (d) Each sign required under Subsection (c) must:

11 (1) contain:

12 (A) a statement of:

13 (i) the nature of the special event; and

14 (ii) the dates and hours of towing
15 enforcement; and

16 (B) the number, including the area code, of a
17 telephone that is answered 24 hours a day to identify the location
18 of a towed vehicle;

19 (2) face and be conspicuously visible to the driver of
20 a vehicle that enters the facility;

21 (3) be located:

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

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

27 (i) curbs, access barriers, landscaping, or

driveways do not establish definite vehicle entrances onto a parking facility from a public roadway other than an alley; and

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

(4) be made of weather-resistant material;

(5) be at least 18 inches wide and 24 inches tall;

(6) be mounted on a pole, post, wall, or free-standing board; and

(7) be installed so that the bottom edge of the sign is no lower than two feet and no higher than six feet above ground level.

(e) If a vehicle is towed under Subsection (b), personnel must be available to:

(1) release the vehicle within two hours after a request for release of the vehicle; and

(2) accept any payment required for the release of the vehicle.

(f) A university may not charge a fee for a tow under Subsection (b) that exceeds 75 percent of the private property tow fee established under Section [2308.0575](#).

(g) A vehicle towed under Subsection (b) that is not claimed by the vehicle owner or operator within 48 hours after the conclusion of the special event may only be towed:

(1) without further expense to the vehicle owner or operator; and

(2) to another location on the university campus.

(h) The university must notify the owner or operator of a

vehicle towed under Subsection (b) of the right of the vehicle owner or operator to a hearing under Subchapter J.

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

SUBCHAPTER I. REGULATION OF TOWING COMPANIES [~~7, BOOTING COMPANIES, 7~~]
AND PARKING FACILITY OWNERS

SECTION 12. (a) The following provisions of the Occupations Code are repealed:

(1) Section 2308.002(9); and

(2) Section 2308.103(d).

(b) Effective September 1, 2018, Sections 2308.1555 and 2308.1556, Occupations Code, are repealed.

SECTION 13. (a) On September 1, 2018, a license issued under former Section 2308.1555 or 2308.1556, Occupations Code, expires.

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

(c) The changes in law made by this Act to Section 2308.255, Occupations Code, do not apply to the booting of a vehicle pursuant

1 to a standing written agreement between a booting company and a
2 parking facility owner entered into before the effective date of
3 this Act. The booting of a vehicle pursuant to a standing written
4 agreement entered into before the effective date of this Act is
5 governed by the law as it existed immediately before the effective
6 date of this Act, and that law is continued in effect for that
7 purpose.

8 SECTION 14. Except as otherwise provided by this Act, this
9 Act takes effect immediately if it receives a vote of two-thirds of
10 all the members elected to each house, as provided by Section 39,
11 Article III, Texas Constitution. If this Act does not receive the
12 vote necessary for immediate effect, this Act takes effect
13 September 1, 2017.