

By: Kuempel

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;

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

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

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

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

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

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

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

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

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

Sec. 2308.151. LICENSE OR LOCAL AUTHORIZATION REQUIRED.

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

(1) perform towing operations; or

(2) operate a towing company. [+]

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

Section [2308.2085](#), a person may not:

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

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

SECTION 6. Section [2308.2085](#), Occupations Code, is amended to read as follows:

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

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

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

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

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

(b) Regulations adopted under this section must:

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

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

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

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

9 SECTION 7. Section 2308.255, Occupations Code, is amended
10 to read as follows:

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

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

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

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

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

25 (2) on request the parking facility owner provides to
26 the owner or operator of the vehicle information on the name of the
27 towing company and vehicle storage facility that will be used to tow

1 ~~[remove]~~ and store the vehicle and the vehicle is:

2 (A) left in violation of Section 2308.251;

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

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

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

10 (1) this chapter;

11 (2) a municipal ordinance that complies with Section
12 2308.208; or

13 (3) the direction of:

14 (A) a peace officer; or

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

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

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

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

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

27 (e) When a tow truck is used for a nonconsent tow authorized

1 by a peace officer under Section 545.3051, Transportation Code, the
2 operator of the tow truck and the towing company are agents of the
3 law enforcement agency and are subject to Section 545.3051(e),
4 Transportation Code.

5 SECTION 8. Section 2308.257, Occupations Code, is amended
6 by amending Subsections (a) and (b) and adding Subsection (b-1) to
7 read as follows:

8 (a) A parking facility owner may, without the consent of the
9 owner or operator of an unauthorized vehicle, cause a boot to be
10 installed on the vehicle in the parking facility if:

11 (1) the vehicle has been parked, stored, or located on
12 the parking facility continuously for one hour or longer; and

13 (2) signs that comply with Subchapter G prohibiting
14 unauthorized vehicles are located on the parking facility at the
15 time of the booting and for the preceding 24 hours and remain
16 installed at the time of the booting.

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

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

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

23 (3) the name, address, and telephone number of the
24 booting company;

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

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

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

(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.

(b-1) No more than one boot may be installed on a vehicle at any time.

SECTION 9. Subchapter F, Chapter 2308, Occupations Code, is amended by adding Section 2308.258 to read as follows:

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

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

SECTION 10. The heading to Subchapter I, Chapter 2308, Occupations Code, is amended to read as follows:

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

AND PARKING FACILITY OWNERS

SECTION 11. (a) The following provisions of the Occupations Code are repealed:

(1) Section 2308.002(9); and

1 (2) Section 2308.103.

2 (b) Effective September 1, 2018, Sections 2308.1555 and
3 2308.1556, Occupations Code, are repealed.

4 SECTION 12. (a) On September 1, 2018, a license issued
5 under former Section 2308.1555 or 2308.1556, Occupations Code,
6 expires.

7 (b) The changes in law made by this Act to Section
8 2308.051(a), Occupations Code, regarding the qualifications for a
9 member of the Towing and Storage Advisory Board do not affect the
10 entitlement of a member serving on the board immediately before the
11 effective date of this Act to continue to serve and function as a
12 member of the board for the remainder of the member's term. When
13 board vacancies occur on or after the effective date of this Act,
14 the presiding officer of the Texas Commission of Licensing and
15 Regulation shall appoint new members to the board in a manner that
16 reflects the changes in law made by this Act.

17 (c) The changes in law made by this Act to Section 2308.255,
18 Occupations Code, do not apply to the booting of a vehicle pursuant
19 to a standing written agreement between a booting company and a
20 parking facility owner entered into before the effective date of
21 this Act. The booting of a vehicle pursuant to a standing written
22 agreement entered into before the effective date of this Act is
23 governed by the law as it existed immediately before the effective
24 date of this Act, and that law is continued in effect for that
25 purpose.

26 SECTION 13. Except as otherwise provided by this Act, this
27 Act takes effect immediately if it receives a vote of two-thirds of

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1 all the members elected to each house, as provided by Section 39,
2 Article III, Texas Constitution. If this Act does not receive the
3 vote necessary for immediate effect, this Act takes effect
4 September 1, 2017.