

1-1 By: Zaffirini S.B. No. 1501
 1-2 (In the Senate - Filed March 8, 2017; March 20, 2017, read
 1-3 first time and referred to Committee on Business & Commerce;
 1-4 April 18, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 18, 2017,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1501 By: Zaffirini

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the regulation of motor vehicle towing, booting, and
 1-22 storage and to the elimination of required state licensing for
 1-23 vehicle booting companies and operators.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 2303.058, Occupations Code, is amended
 1-26 to read as follows:

1-27 Sec. 2303.058. ADVISORY BOARD. The Towing and~~[-]~~ Storage~~[-]~~
 1-28 ~~and Booting~~ Advisory Board under Chapter 2308 shall advise the
 1-29 commission in adopting vehicle storage rules under this chapter.

1-30 SECTION 2. Section 2308.002, Occupations Code, is amended
 1-31 by amending Subdivisions (1) and (8-a) and adding Subdivisions
 1-32 (5-b) and (8-b) to read as follows:

1-33 (1) "Advisory board" means the Towing and~~[-]~~ Storage~~[-]~~
 1-34 ~~and Booting~~ Advisory Board.

1-35 (5-b) "Local authority" means a state or local
 1-36 governmental entity authorized to regulate traffic or parking and
 1-37 includes:

- 1-38 (A) an institution of higher education; and
- 1-39 (B) a political subdivision, including a county,
 1-40 municipality, special district, junior college district, housing
 1-41 authority, or other political subdivision of this state.

1-42 (8-a) "Peace officer" means a person who is a peace
 1-43 officer under Article 2.12, Code of Criminal Procedure.

1-44 (8-b) "Private property tow" means any tow of a
 1-45 vehicle authorized by a parking facility owner without the consent
 1-46 of the owner or operator of the vehicle.

1-47 SECTION 3. Effective September 1, 2018, Section 2308.004,
 1-48 Occupations Code, is amended to read as follows:

1-49 Sec. 2308.004. EXEMPTION. Sections 2308.151(b),
 1-50 2308.2085, 2308.257, and 2308.258 do ~~[(a) This chapter does]~~ not
 1-51 apply to:

1-52 (1) a person who, while exercising a statutory or
 1-53 contractual lien right with regard to a vehicle:

- 1-54 (A) ~~[(1)]~~ installs or removes a boot; or
- 1-55 (B) ~~[(2)]~~ controls, installs, or directs the
 1-56 installation and removal of one or more boots; or~~[-]~~

1-57 (2) ~~[(b) This chapter does not apply to]~~ a commercial
 1-58 office building owner or manager who installs or removes a boot in
 1-59 the building's parking facility.

1-60 SECTION 4. Section 2308.051(a), Occupations Code, as

2-1 amended by Chapters 457 (H.B. 2548) and 845 (S.B. 2153), Acts of the
2-2 81st Legislature, Regular Session, 2009, is reenacted and amended
2-3 to read as follows:

2-4 (a) The advisory board consists of the following members
2-5 appointed by the presiding officer of the commission with the
2-6 approval of the commission:

2-7 (1) one representative of a towing company operating
2-8 in a county with a population of less than one million;

2-9 (2) one representative of a towing company operating
2-10 in a county with a population of one million or more;

2-11 (3) one representative [~~owner~~] of a vehicle storage
2-12 facility located in a county with a population of less than one
2-13 million;

2-14 (4) one representative [~~owner~~] of a vehicle storage
2-15 facility located in a county with a population of one million or
2-16 more;

2-17 (5) one parking facility representative [~~owner~~];

2-18 (6) one peace officer [~~law enforcement officer~~] from a
2-19 county with a population of less than one million;

2-20 (7) one peace officer [~~law enforcement officer~~] from a
2-21 county with a population of one million or more;

2-22 (8) one representative of a member insurer, as defined
2-23 by Section 462.004, Insurance Code, of the Texas Property and
2-24 Casualty Insurance Guaranty Association who writes [~~property and~~
2-25 ~~casualty insurers who write~~] automobile insurance in this state;
2-26 and

2-27 [~~(9) one representative of a booting company~~]

2-28 (9) one person who operates both a towing company and a
2-29 vehicle storage facility [~~public member~~].

2-30 SECTION 5. Effective September 1, 2018, Section 2308.151,
2-31 Occupations Code, is amended to read as follows:

2-32 Sec. 2308.151. LICENSE OR LOCAL AUTHORIZATION REQUIRED.

2-33 (a) Unless the person holds an appropriate license under this
2-34 subchapter, a person may not:

2-35 (1) perform towing operations; or

2-36 (2) operate a towing company. [~~+~~]

2-37 (b) Unless a person is authorized by a local authority under
2-38 Section 2308.2085, a person may not:

2-39 (1) [~~(3)~~] perform booting operations; or

2-40 (2) [~~(4)~~] operate a booting company.

2-41 SECTION 6. Section 2308.2085, Occupations Code, is amended
2-42 to read as follows:

2-43 Sec. 2308.2085. LOCAL AUTHORITY REGULATION OF [~~MUNICIPAL~~
2-44 ~~ORDINANCE REGULATING~~] BOOTING ACTIVITIES [~~COMPANIES AND~~
2-45 ~~OPERATORS~~]. (a) A local authority [~~municipality~~] may regulate, in
2-46 areas in which the entity regulates parking or traffic, [~~adopt an~~
2-47 ~~ordinance that is identical to the~~] booting activities, including:

2-48 (1) operation of booting companies and operators that
2-49 operate on a parking facility;

2-50 (2) any permit and sign requirements in connection
2-51 with the booting of a vehicle; and

2-52 (3) [~~provisions in this chapter or that imposes~~
2-53 ~~additional requirements that exceed the minimum standards of the~~
2-54 ~~booting provisions in this chapter but may not adopt an ordinance~~
2-55 ~~that conflicts with the booting provisions in this chapter.~~

2-56 [~~(b) A municipality may regulate the~~] fees that may be
2-57 charged in connection with the booting of a vehicle [~~, including~~
2-58 ~~associated parking fees~~].

2-59 (b) Regulations adopted under this section must:

2-60 (1) incorporate the requirements of Sections 2308.257
2-61 and 2308.258;

2-62 (2) include procedures for vehicle owners and
2-63 operators to file a complaint with the local authority regarding a
2-64 booting company or operator;

2-65 (3) provide for the imposition of a penalty on a
2-66 booting company or operator for a violation of Section 2308.258;
2-67 and

2-68 (4) provide for the revocation of any permit, license,
2-69 or other authority of a booting company or operator to boot vehicles

3-1 if the company or operator violates Section 2308.258 more than
3-2 twice in a five-year period [~~(c) A municipality may require~~
3-3 ~~booting companies to obtain a permit to operate in the~~
3-4 ~~municipality~~].

3-5 SECTION 7. Section 2308.255, Occupations Code, is amended
3-6 to read as follows:

3-7 Sec. 2308.255. TOWING COMPANY'S [~~OR BOOT OPERATOR'S~~]
3-8 AUTHORITY TO TOW [~~REMOVE~~] AND STORE [~~OR BOOT~~] UNAUTHORIZED VEHICLE.

3-9 (a) A towing company [~~that is insured as provided by Subsection~~
3-10 ~~(c)~~] may, without the consent of an owner or operator of an
3-11 unauthorized vehicle, tow the vehicle to [~~remove~~] and store the
3-12 vehicle at a vehicle storage facility at the expense of the owner or
3-13 operator of the vehicle if:

3-14 (1) the towing company has received written
3-15 verification from the parking facility owner that:

3-16 (A) [~~the parking facility owner has installed~~]
3-17 the signs required by Section 2308.252(a)(1) are posted; or

3-18 (B) the owner or operator received notice under
3-19 Section 2308.252(a)(2) or the parking facility owner gave notice
3-20 complying with Section 2308.252(a)(3); or

3-21 (2) on request the parking facility owner provides to
3-22 the owner or operator of the vehicle information on the name of the
3-23 towing company and vehicle storage facility that will be used to tow
3-24 [~~remove~~] and store the vehicle and the vehicle is:

3-25 (A) left in violation of Section 2308.251;

3-26 (B) in or obstructing a portion of a paved
3-27 driveway; or

3-28 (C) on a public roadway used for entering or
3-29 exiting the facility and the tow [~~removal~~] is approved by a peace
3-30 officer.

3-31 (b) A towing company may not tow [~~remove~~] an unauthorized
3-32 vehicle except under:

3-33 (1) this chapter;

3-34 (2) a municipal ordinance that complies with Section
3-35 2308.208; or

3-36 (3) the direction of:

3-37 (A) a peace officer; or

3-38 (B) the owner or operator of the vehicle.

3-39 (c) Only a towing company that is insured against liability
3-40 for property damage incurred in towing a vehicle may tow [~~remove~~]
3-41 and store an unauthorized vehicle under this section.

3-42 (d) A towing company may tow [~~remove~~] and store a vehicle
3-43 under Subsection (a) [~~and a boot operator may boot a vehicle under~~
3-44 ~~Section 2308.257~~] only if the parking facility owner:

3-45 (1) requests that the towing company tow [~~remove~~] and
3-46 store [~~or that the boot operator boot~~] the specific vehicle; or

3-47 (2) has a standing written agreement with the towing
3-48 company [~~or boot operator~~] to enforce parking restrictions in the
3-49 parking facility.

3-50 (e) When a tow truck is used for a nonconsent tow authorized
3-51 by a peace officer under Section 545.3051, Transportation Code, the
3-52 operator of the tow truck and the towing company are agents of the
3-53 law enforcement agency and are subject to Section 545.3051(e),
3-54 Transportation Code.

3-55 SECTION 8. Section 2308.257, Occupations Code, is amended
3-56 by amending Subsection (b) and adding Subsection (b-1) to read as
3-57 follows:

3-58 (b) A boot operator that installs a boot on a vehicle must
3-59 affix a conspicuous notice to the vehicle's front windshield or
3-60 driver's side window stating:

3-61 (1) that the vehicle has been booted and damage may
3-62 occur if the vehicle is moved;

3-63 (2) the date and time the boot was installed;

3-64 (3) the name, address, and telephone number of the
3-65 booting company;

3-66 (4) a telephone number that is answered 24 hours a day
3-67 to enable the owner or operator of the vehicle to arrange for
3-68 removal of the boot;

3-69 (5) the amount of the fee for removal of the boot and

4-1 any associated parking fees; ~~and~~
4-2 (6) notice of the right of a vehicle owner or vehicle
4-3 operator to a hearing under Subchapter J; and
4-4 (7) in the manner prescribed by the local authority,
4-5 notice of the procedure to file a complaint with the local authority
4-6 for violation of this chapter by a boot operator.

4-7 (b-1) No more than one boot may be installed on a vehicle at
4-8 any time.

4-9 SECTION 9. Subchapter F, Chapter 2308, Occupations Code, is
4-10 amended by adding Section 2308.258 to read as follows:

4-11 Sec. 2308.258. BOOT REMOVAL. (a) A booting company
4-12 responsible for the installation of a boot on a vehicle shall remove
4-13 the boot not later than one hour after the time the owner or
4-14 operator of the vehicle contacts the company to request removal of
4-15 the boot.

4-16 (b) A booting company shall waive the amount of the fee for
4-17 removal of a boot, excluding any associated parking fees, if the
4-18 company fails to have the boot removed within the time prescribed by
4-19 Subsection (a).

4-20 SECTION 10. The heading to Subchapter I, Chapter 2308,
4-21 Occupations Code, is amended to read as follows:

4-22 SUBCHAPTER I. REGULATION OF TOWING COMPANIES [~~BOOTING~~
4-23 ~~COMPANIES,~~] AND PARKING FACILITY OWNERS

4-24 SECTION 11. (a) The following provisions of the
4-25 Occupations Code are repealed:

- 4-26 (1) Section 2308.002(9); and
- 4-27 (2) Section 2308.103(d).

4-28 (b) Effective September 1, 2018, Sections 2308.1555 and
4-29 2308.1556, Occupations Code, are repealed.

4-30 SECTION 12. (a) On September 1, 2018, a license issued
4-31 under former Section 2308.1555 or 2308.1556, Occupations Code,
4-32 expires.

4-33 (b) The changes in law made by this Act to Section
4-34 2308.051(a), Occupations Code, regarding the qualifications for a
4-35 member of the Towing and Storage Advisory Board do not affect the
4-36 entitlement of a member serving on the board immediately before the
4-37 effective date of this Act to continue to serve and function as a
4-38 member of the board for the remainder of the member's term. When
4-39 board vacancies occur on or after the effective date of this Act,
4-40 the presiding officer of the Texas Commission of Licensing and
4-41 Regulation shall appoint new members to the board in a manner that
4-42 reflects the changes in law made by this Act.

4-43 (c) The changes in law made by this Act to Section 2308.255,
4-44 Occupations Code, do not apply to the booting of a vehicle pursuant
4-45 to a standing written agreement between a booting company and a
4-46 parking facility owner entered into before the effective date of
4-47 this Act. The booting of a vehicle pursuant to a standing written
4-48 agreement entered into before the effective date of this Act is
4-49 governed by the law as it existed immediately before the effective
4-50 date of this Act, and that law is continued in effect for that
4-51 purpose.

4-52 SECTION 13. This Act takes effect only if a specific
4-53 appropriation for the implementation of the Act is provided in a
4-54 general appropriations act of the 85th Legislature.

4-55 SECTION 14. Except as otherwise provided by this Act, this
4-56 Act takes effect immediately if it receives a vote of two-thirds of
4-57 all the members elected to each house, as provided by Section 39,
4-58 Article III, Texas Constitution. If this Act does not receive the
4-59 vote necessary for immediate effect, this Act takes effect
4-60 September 1, 2017.

4-61 * * * * *