

By: Oliverson

H.B. No. 3434

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of motor vehicle towing, booting, and storage; authorizing administrative penalties.

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

SECTION 1. Subchapter D, Chapter 2303, Occupations Code, is amended by adding Section 2303.1601 to read as follows:

Sec. 2303.1601. RELEASE OF PERSONAL PROPERTY AND COMMERCIAL CARGO. (a) In this section, "commercial cargo" means any property in or on a vehicle that has been transported in interstate or intrastate commerce.

(b) The operator of a vehicle storage facility shall allow a person who establishes ownership or right of possession or control of a vehicle stored at the facility, or an authorized representative of the person, to remove at no cost any personal property from the vehicle that may be readily detached from the vehicle.

(c) The operator of a vehicle storage facility shall allow a person who demonstrates ownership or right of possession or control of a vehicle stored at the facility or of commercial cargo contained in or on a vehicle stored at the facility, or any authorized representative of the person, to remove any commercial cargo identified or described by a bill of lading, shipping manifest, shipping invoice, or similar document.

SECTION 2. Chapter 2303, Occupations Code, is amended by

adding Subchapter E to read as follows:

SUBCHAPTER E. TRANSFER OF CERTAIN VEHICLES TO AUTO REPAIR OR AUTO
BODY REPAIR SHOP

Sec. 2303.201. DEFINITIONS. In this subchapter:

(1) "Auto body repair shop" means a shop specializing
in the repair of bodies of damaged vehicles.

(2) "Auto repair shop" means a shop specializing in
the mechanical repair of vehicles.

(3) "Incident management tow" has the meaning assigned
by Section 2308.002.

Sec. 2303.202. APPLICABILITY. This subchapter applies only
to the operator or employee of a vehicle storage facility licensed
under this chapter.

Sec. 2303.203. NOTICE AND SIGNATURE REQUIRED FOR TRANSFER.

(a) An operator or employee of a vehicle storage facility may
transfer or cause the transfer of a vehicle involved in an incident
management tow from a vehicle storage facility to an auto repair or
auto body repair shop only if:

(1) the facility operator or employee gives the
vehicle owner or operator written notice of the transfer on the form
developed under Section 2303.204; and

(2) the vehicle owner or operator:

(A) consents to the transfer; and

(B) signs the form.

(b) A vehicle storage facility operator shall retain any
records of the storage and release of a vehicle involved in an
incident management tow, including a copy of the form signed under

1 Subsection (a)(2).

2 Sec. 2303.204. FORM FOR NOTICE REGARDING TRANSFER. (a) The
3 department shall develop a form to provide notice to an owner or
4 operator of a vehicle involved in an incident management tow
5 regarding the transfer of the vehicle from a vehicle storage
6 facility to an auto repair or auto body repair shop.

7 (b) The form must include statements that:

8 (1) auto repair and auto body repair shops are not
9 regulated by the state; and

10 (2) the vehicle owner or operator:

11 (A) is not required to transfer the vehicle from
12 the vehicle storage facility to an auto repair or auto body repair
13 shop;

14 (B) will be subject to payment of unregulated
15 fees and charges to secure release of the vehicle from an auto
16 repair or auto body repair shop if the owner or operator consents to
17 the transfer; and

18 (C) may file a complaint with the department if
19 the vehicle is transferred without the owner's or operator's
20 signature on the form.

21 (c) In addition to the statements required by Subsection
22 (b), the department may include on the form under this section any
23 information the department determines is necessary to enhance
24 consumer protection relating to incident management tows.

25 Sec. 2303.205. PROHIBITED ACTIVITY BETWEEN LICENSE HOLDER
26 AND REPAIR SHOP; ORDER FOR REFUND. (a) An operator or employee of a
27 vehicle storage facility may not directly or indirectly accept

1 money or anything of value in connection with the transfer of a
2 vehicle that does not comply with Section 2303.203(a).

3 (b) The executive director or commission may order an
4 operator or employee of a vehicle storage facility who accepts
5 money or anything of value as described by Subsection (a) to pay to
6 the vehicle owner or operator an amount equal to the amount of the
7 value received.

8 (c) The executive director or commission may order an auto
9 repair or auto body repair shop that gives money or anything of
10 value to an operator or employee of a vehicle storage facility in
11 order to induce the transfer of a vehicle involved in an incident
12 management tow to the auto repair or auto body repair shop to refund
13 to the vehicle owner or operator any amount charged by the repair
14 shop in connection with the transfer or storage of the vehicle.

15 Sec. 2303.206. GROUNDS FOR REVOCATION OF LICENSE. In
16 addition to assessing an administrative penalty under Chapter 51 or
17 this chapter, the executive director or commission may revoke a
18 license issued under this chapter if, after notice and hearing, the
19 license holder is found to be in violation of this subchapter.

20 Sec. 2303.207. MAXIMUM PENALTY; CONTINUING VIOLATION. (a)
21 Notwithstanding any other provision of Chapter 51 or this chapter,
22 the amount of an administrative penalty that may be assessed for a
23 violation of this subchapter may not exceed \$10,000 per day for each
24 violation.

25 (b) Each day of a continuing violation of this subchapter is
26 a separate violation.

27 SECTION 3. Subchapter G, Chapter 2303, Occupations Code, is

amended by adding Section 2303.306 to read as follows:

Sec. 2303.306. SURETY BOND REQUIRED. (a) The commission or executive director may require the holder of a license issued under this chapter who commits multiple violations of this chapter or a rule adopted under this chapter to obtain a surety bond.

(b) The commission by rule shall establish the conditions and amount of a surety bond required under Subsection (a) based on the nature, extent, and seriousness of the violations.

(c) A surety bond required under Subsection (a) must:

(1) be issued by a surety authorized to conduct business in this state;

(2) comply with the applicable requirements of the Insurance Code;

(3) be payable to the executive director on behalf of persons who are injured as a result of the license holder's violation of Chapter 51 or this chapter;

(4) remain in effect for as long as required by the department; and

(5) be in the form prescribed by the commission.

(d) A surety that issues a bond required by Subsection (a) shall provide written notice to the department of the surety's intent to cancel the bond not later than the 60th day before the date the surety cancels the bond.

SECTION 4. Chapter 2308, Occupations Code, is amended by adding Subchapter E-1 to read as follows:

SUBCHAPTER E-1. TOWING OF CERTAIN VEHICLES TO AUTO REPAIR OR AUTO

BODY REPAIR SHOP

1 Sec. 2308.231. DEFINITIONS. In this subchapter, "auto body
2 repair shop" and "auto repair shop" have the meanings assigned by
3 Section 2303.201.

4 Sec. 2308.232. APPLICABILITY. This subchapter applies only
5 to a towing company or operator licensed under this chapter.

6 Sec. 2308.233. NOTICE AND SIGNATURE REQUIRED FOR TRANSFER.

7 (a) A towing company or operator may tow or cause the towing of a
8 vehicle involved in an incident management tow to an auto repair or
9 auto body repair shop only if:

10 (1) the towing company or operator gives the vehicle
11 owner or operator written notice of the transfer on the form
12 developed under Section 2308.234; and

13 (2) the vehicle owner or operator:

14 (A) consents to the transfer; and

15 (B) signs the form.

16 (b) A towing company shall retain any records of the storage
17 and release of a vehicle involved in an incident management tow,
18 including a copy of the form signed under Subsection (a)(2).

19 Sec. 2308.234. FORM FOR NOTICE REGARDING TRANSFER. (a) The
20 department shall develop a form to provide notice to an owner or
21 operator of a vehicle involved in an incident management tow
22 regarding the towing of the vehicle to an auto repair or auto body
23 repair shop.

24 (b) The form must include statements that:

25 (1) auto repair and auto body repair shops are not
26 regulated by the state; and

27 (2) the vehicle owner or operator:

1 (A) is not required to have the vehicle towed to
2 an auto repair or auto body repair shop;

3 (B) will be subject to payment of unregulated
4 fees and charges to secure release of the vehicle from an auto
5 repair or auto body repair shop if the owner or operator consents to
6 the tow; and

7 (C) may file a complaint with the department if
8 the vehicle is towed without the owner's or operator's signature on
9 the form.

10 (c) In addition to the statements required by Subsection
11 (b), the department may include on the form under this section any
12 information the department determines is necessary to enhance
13 consumer protection relating to incident management tows.

14 Sec. 2308.235. PROHIBITED ACTIVITY BETWEEN LICENSE HOLDER
15 AND REPAIR SHOP; ORDER FOR REFUND. (a) The holder of a license
16 issued under this chapter may not directly or indirectly accept
17 money or anything of value in connection with the towing of a
18 vehicle that does not comply with the requirements of Section
19 2308.233(a).

20 (b) The executive director or commission may order the
21 holder of a license issued under this chapter who accepts money or
22 anything of value as described by Subsection (a) to pay to the
23 vehicle owner or operator an amount equal to the amount of the value
24 received.

25 (c) The executive director or commission may order an auto
26 repair or auto body repair shop that gives money or anything of
27 value to the holder of a license issued under this chapter in order

1 to induce the license holder to tow a vehicle involved in an
2 incident management tow to an auto repair or auto body repair shop
3 to refund to the vehicle owner or operator any amount charged by the
4 repair shop in connection with the tow or storage of the vehicle.

5 Sec. 2308.236. REQUEST FOR REMOVAL FROM TOW ROTATION LIST.

6 The commission or executive director may:

7 (1) report a violation of this subchapter to a
8 sheriff's office that maintains a list of towing companies under
9 Section 2308.209; and

10 (2) request that a towing company that violates this
11 subchapter be removed from the list maintained by the sheriff's
12 office.

13 Sec. 2308.237. GROUNDS FOR REVOCATION OF LICENSE. In
14 addition to assessing an administrative penalty under Chapter 51 or
15 this chapter, the executive director or commission may revoke a
16 license issued under this chapter if, after notice and hearing, the
17 license holder is found to be in violation of this subchapter.

18 Sec. 2308.238. MAXIMUM PENALTY; CONTINUING VIOLATION. (a)
19 Notwithstanding any other provision of Chapter 51 or this chapter,
20 the amount of an administrative penalty that may be assessed for a
21 violation of this subchapter may not exceed \$10,000 per day for each
22 violation.

23 (b) Each day of a continuing violation of this subchapter is
24 a separate violation.

25 SECTION 5. Section 2308.455, Occupations Code, is amended
26 to read as follows:

27 Sec. 2308.455. CONTENTS OF NOTICE. The notice under

1 Section 2308.454 must include:

2 (1) a statement of:

3 (A) the person's right to submit a request within
4 30 [~~14~~] days for a court hearing to determine whether probable cause
5 existed to remove, or install a boot on, the vehicle;

6 (B) the information that a request for a hearing
7 must contain;

8 (C) any filing fee for the hearing; and

9 (D) the person's right to request a hearing in
10 any justice court in:

11 (i) the county from which the vehicle was
12 towed; or

13 (ii) for booted vehicles, the county in
14 which the parking facility is located;

15 (2) the name, address, and telephone number of the
16 towing company that removed the vehicle or the booting company that
17 booted the vehicle;

18 (3) the name, address, telephone number, and county of
19 the vehicle storage facility in which the vehicle was placed;

20 (4) the name, street address including city, state,
21 and zip code, and telephone number of the person, parking facility
22 owner, or law enforcement agency that authorized the removal of the
23 vehicle; and

24 (5) the name, address, and telephone number of each
25 justice court in the county from which the vehicle was towed or, for
26 booted vehicles, the county in which the parking facility is
27 located, or the address of an Internet website maintained by the

Office of Court Administration of the Texas Judicial System that contains the name, address, and telephone number of each justice court in that county.

SECTION 6. Sections 2308.456(a), (c), and (c-1), Occupations Code, are amended to read as follows:

(a) Except as provided by Subsections (c) and (c-1), a person entitled to a hearing under this chapter must deliver a written request for the hearing to the court before the 30th ~~[14th]~~ day after the date the vehicle was removed and placed in the vehicle storage facility or booted, excluding Saturdays, Sundays, and legal holidays.

(c) If notice was not given under Section 2308.454, the 30-day ~~[14-day]~~ deadline for requesting a hearing under Subsection (a) does not apply, and the owner or operator of the vehicle may deliver a written request for a hearing at any time.

(c-1) The 30-day ~~[14-day]~~ period for requesting a hearing under Subsection (a) does not begin until the date on which the towing company or vehicle storage facility provides to the vehicle owner or operator the information necessary for the vehicle owner or operator to complete the material for the request for hearing required under Subsections (b)(2) through (6).

SECTION 7. Subchapter K, Chapter 2308, Occupations Code, is amended by adding Section 2308.506 to read as follows:

Sec. 2308.506. SURETY BOND REQUIRED. (a) The commission or executive director may require the holder of a license issued under this chapter who commits multiple violations of this chapter or a rule adopted under this chapter to obtain a surety bond.

1 (b) The commission by rule shall establish the conditions
2 and amount of a surety bond required under Subsection (a) based on
3 the nature, extent, and seriousness of the violations.

4 (c) A surety bond required under Subsection (a) must:

5 (1) be issued by a surety authorized to conduct
6 business in this state;

7 (2) comply with the applicable requirements of the
8 Insurance Code;

9 (3) be payable to the executive director on behalf of
10 persons who are injured as a result of the license holder's
11 violation of Chapter 51 or this chapter;

12 (4) remain in effect for as long as required by the
13 department; and

14 (5) be in the form prescribed by the commission.

15 (d) A surety that issues a bond required by Subsection (a)
16 shall provide written notice to the department of the surety's
17 intent to cancel the bond not later than the 60th day before the
18 date the surety cancels the bond.

19 SECTION 8. As soon as practicable after the effective date
20 of this Act, the Texas Department of Licensing and Regulation shall
21 develop any form and the Texas Commission of Licensing and
22 Regulation shall adopt any rules to implement the changes in law
23 made by this Act.

24 SECTION 9. Sections 2308.455 and 2308.456, Occupations
25 Code, as amended by this Act, apply only to a notice or a request for
26 a hearing in connection with the towing or booting of a vehicle on
27 or after the effective date of this Act. A notice or a request for a

H.B. No. 3434

1 hearing in connection with the towing or booting of a vehicle before
2 the effective date of this Act is governed by the law in effect when
3 the vehicle was towed or booted, and the former law is continued in
4 effect for that purpose.

5 SECTION 10. This Act takes effect September 1, 2019.