

By: Powell

S.B. No. 1651

A BILL TO BE ENTITLED

AN ACT

relating to motor vehicle towing.

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

SECTION 1. Section 2308.002(13), Occupations Code, is amended to read as follows:

(13) "Unauthorized vehicle" means a vehicle [~~parked, stored, or~~] located on a parking facility without the consent of the parking facility owner, including a vehicle parked in violation of:

(A) towing or parking rules or policies provided to a tenant in accordance with Section 92.0131, Property Code; or

(B) a sign prohibiting or restricting parking posted in accordance with Subchapter G.

SECTION 2. The heading to Section 2308.251, Occupations Code, is amended to read as follows:

Sec. 2308.251. PROHIBITION AGAINST UNAUTHORIZED [~~UNATTENDED~~] VEHICLES ON PARKING FACILITIES [~~IN CERTAIN AREAS~~].

SECTION 3. Section 2308.251, Occupations Code, is amended by amending Subsection (a) and adding Subsections (d), (e), (f), and (g) to read as follows:

(a) The owner or operator of a vehicle may not, without the consent of a parking facility owner, leave unattended on a parking facility a vehicle that:

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

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

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

5 (4) does not display valid [~~the special~~] license
6 plates issued under Section 504.201, Transportation Code, or a
7 valid [~~the~~] disabled parking placard issued under Chapter 681,
8 Transportation Code, for a vehicle transporting a disabled person
9 and is in a parking space that is designated for the exclusive use
10 of a vehicle transporting a disabled person; [~~or~~]

11 (5) is leaking a fluid that presents a hazard or threat
12 to persons or property;

13 (6) obstructs an area that is designed or intended for
14 the use of pedestrians;

15 (7) is in or obstructs a restricted parking area or
16 parking space designated under Subchapter G;

17 (8) is in a tow away zone that is, except as provided
18 for a fire lane under Subsection (c), brightly painted and is
19 conspicuously and legibly marked with the warning "TOW AWAY ZONE"
20 in contrasting letters at least three inches tall;

21 (9) is a semitrailer, trailer, or truck-tractor, as
22 defined by Chapter 502, Transportation Code, unless the owner or
23 operator of the vehicle is permitted under the terms of a rental or
24 lease agreement with the parking facility to leave the unattended
25 vehicle on the parking facility;

26 (10) is on an area that is not designed or intended for
27 the parking of vehicles;

1 (11) is an abandoned motor vehicle as described by
2 Section 683.002, Transportation Code;

3 (12) subject to Subsections (d) and (e), does not
4 display an unexpired license plate or registration insignia issued
5 for the vehicle under Chapter 502, Transportation Code, or the
6 vehicle registration law of another state or country;

7 (13) is not registered as the vehicle of a tenant of an
8 apartment complex or the tenant's guest and:

9 (A) the parking facility serves or is adjacent to
10 an apartment complex consisting of one or more residential
11 apartment units and any adjacent real property serving the
12 apartment complex;

13 (B) the parking facility is restricted to parking
14 by tenants of the apartment complex and their guests;

15 (C) the parking facility owner requires the
16 vehicles of tenants and their guests to be registered; and

17 (D) the parking facility owner or a towing
18 company on behalf of the parking facility owner maintains a list of
19 registered tenant and guest vehicles that is updated as vehicles
20 are registered; or

21 (14) occupies a parking space such that any part of the
22 vehicle occupies an area of more than 12 inches beyond a demarcation
23 separating the parking space from an adjacent parking space.

24 (d) Except as provided by a contract described by Subsection
25 (e), a parking facility owner may not have a vehicle towed from the
26 parking facility solely because the vehicle does not display an
27 unexpired license plate or registration insignia issued for the

1 vehicle under Chapter 502, Transportation Code, or the vehicle
2 registration law of another state or country.

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

11 (1) state:

12 (A) that the vehicle does not display an
13 unexpired license plate or registration insignia; and

14 (B) that the vehicle will be towed at the expense
15 of the owner or operator of the vehicle if the vehicle does not
16 display an unexpired license plate or registration insignia;

17 (2) contain a telephone number that is answered 24
18 hours a day to enable the owner or operator of the vehicle to locate
19 the vehicle; and

20 (3) be:

21 (A) delivered in person to the owner or operator
22 of the vehicle;

23 (B) sent by certified mail, return receipt
24 requested, to that owner or operator; or

25 (C) attached:

26 (i) to the vehicle's front windshield;

27 (ii) to the vehicle's driver's side window;

1 or

2 (iii) if the vehicle has no front
3 windshield or driver's side window, to a conspicuous part of the
4 vehicle.

5 (f) This section may not be construed:

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

9 (2) to limit or restrict the enforcement of Chapter
10 683, Transportation Code, the abandoned motor vehicle law.

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

15 SECTION 4. Section 2308.252, Occupations Code, is amended
16 by amending Subsections (a), (b), and (c) and adding Subsection
17 (b-1) to read as follows:

18 (a) A parking facility owner may, without the consent of the
19 owner or operator of an unauthorized vehicle, cause the vehicle and
20 any property on or in the vehicle to be removed and stored at a
21 vehicle storage facility at the vehicle owner's or operator's
22 expense if:

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

27 (2) the owner or operator of the vehicle has received

1 actual notice from the parking facility owner that the vehicle will
2 be towed at the vehicle owner's or operator's expense if it is in or
3 not removed from an unauthorized space;

4 (3) the parking facility owner gives notice to the
5 owner or operator of the vehicle under Subsection (b) or (b-1); or

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

10 (A) left in violation of Section 2308.251 [~~or~~
11 2308.253]; or

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

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

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

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

22 (B) [~~a description of all other unauthorized~~
23 ~~areas in the parking facility,~~

24 [~~(C)~~] that the vehicle will be towed at the
25 expense of the owner or operator of the vehicle if it remains in an
26 unauthorized area of the parking facility; and

27 (C) [~~(D)~~] a telephone number that is answered 24

1 hours a day to enable the owner or operator of the vehicle to locate
2 the vehicle; and

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

10 (b-1) Notwithstanding Subsection (b), a parking facility
11 owner is considered to have given notice under Subsection (a)(3)
12 if:

13 (1) notice of parking violations subject to towing has
14 been given as part of a lease agreement; or

15 (2) notice has been posted on signs at each entrance to
16 the parking facility in accordance with Subchapter G.

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

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

20 (2) ~~[describe all other unauthorized areas in the~~
21 ~~parking facility,~~

22 ~~[(3)]~~ contain a warning that the unauthorized vehicle
23 will be towed at the expense of the owner or operator of the vehicle
24 if it is not removed from the parking facility before the 15th day
25 after the postmark date of the notice; and

26 (3) [(4)] state a telephone number that is answered 24
27 hours a day to enable the owner or operator to locate the vehicle.

1 SECTION 5. Section 2308.255(c), Occupations Code, is
2 amended to read as follows:

3 (c) A [~~Only a~~] towing company [~~that is insured against~~
4 ~~liability for property damage incurred in towing a vehicle~~] may tow
5 and store an unauthorized vehicle under this chapter only if the
6 towing company is insured against liability for property damage
7 incurred in towing a vehicle [~~section~~].

8 SECTION 6. Subchapter J, Chapter 2308, Occupations Code, is
9 amended by adding Section 2308.4501 to read as follows:

10 Sec. 2308.4501. PROBABLE CAUSE FOR PRIVATE PROPERTY TOW.
11 For purposes of a hearing under this subchapter regarding a private
12 property tow, "probable cause" means, with respect to the removal
13 of the towed vehicle, reasonably trustworthy facts and
14 circumstances within the knowledge of the tow operator on the scene
15 of the tow that would lead a reasonably prudent tow operator to
16 believe that the vehicle to be towed was parked in an unauthorized
17 location.

18 SECTION 7. Sections 2308.253 and 2308.2565, Occupations
19 Code, are repealed.

20 SECTION 8. The changes in law made by this Act apply only to
21 the towing of a vehicle initiated on or after the effective date of
22 this Act. The towing of a vehicle initiated before the effective
23 date of this Act is governed by the law in effect at the time the
24 towing was initiated, and the former law is continued in effect for
25 that purpose.

26 SECTION 9. This Act takes effect September 1, 2019.