87R11004 BEE-D

By:  Neave H.B. No. 3982

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of motor vehicle towing and booting.

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

SECTION 1.  Section 2308.253(d), Occupations Code, is amended to read as follows:

(d)  A [~~Except as provided by a contract described by Subsection (e), a~~] parking facility owner may not have a vehicle towed from the parking facility merely because the vehicle does not display an unexpired license plate or registration insignia issued for the vehicle under Chapter 502, Transportation Code, or the vehicle registration law of another state or country.

SECTION 2.  Section 2308.301(b), Occupations Code, is amended to read as follows:

(b)  Except as provided by Section 2308.305, an unauthorized vehicle may be towed under Section 2308.252(a)(1) or booted under Section 2308.257 only if each sign prohibiting unauthorized vehicles:

(1)  is made of weather-resistant material;

(2)  is at least 18 inches wide and 24 inches tall;

(3)  contains the international symbol for towing vehicles;

(4)  contains a statement describing who may park in the parking facility and prohibiting all others;

(5)  bears the words, as applicable:

(A)  "Unauthorized Vehicles Will Be Towed or Booted at Owner's or Operator's Expense";

(B)  "Unauthorized Vehicles Will Be Towed at Owner's or Operator's Expense"; or

(C)  "Unauthorized Vehicles Will Be Booted at Owner's or Operator's Expense";

(6)  contains a statement of the days and hours of towing and booting enforcement; [~~and~~]

(7)  contains a number, including the area code, of a telephone that is answered 24 hours a day to enable an owner or operator of a vehicle to locate a towed vehicle or to arrange for removal of a boot from a vehicle; and

(8)  contains a statement describing a person's right to request a court hearing to determine whether probable cause existed to remove, or install a boot on, a vehicle.

SECTION 3.  Section 2308.302, Occupations Code, is amended by amending Subsection (d) and adding Subsection (f) to read as follows:

(d)  Except as provided by Subsections [~~Subsection~~] (e) and (f), the next lower portion of the sign must contain the remaining information required by Section 2308.301(b) displayed in bright red letters at least one inch in height on a white background.

(f)  A sign that otherwise meets the requirements of this subchapter meets the requirements of Section 2308.301(b)(8) if a separate sign installed directly above or below the sign contains the statement describing a person's right to request a hearing required by Section 2308.301(b)(8).

SECTION 4.  Section 2308.404, Occupations Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c)  A towing company, booting company, or parking facility owner who intentionally, knowingly, or recklessly violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for:

(1)  an amount equal to $1,000 plus three times the amount of fees assessed in the vehicle's removal, towing, storage, or booting;

(2)  the reasonable costs of photographs and other documentation related to the towing or booting submitted to the court by the vehicle owner or operator; and

(3)  court costs and reasonable attorney's fees.

(d)  A vehicle owner or operator may bring a civil action pursuant to this section regardless of whether the owner or operator requests a hearing under Subchapter J.

SECTION 5.  Subchapter I, Chapter 2308, Occupations Code, is amended by adding Section 2308.408 to read as follows:

Sec. 2308.408.  PREDATORY TOWING AND BOOTING PROHIBITED. (a) In this section, "predatory towing" or "predatory booting" means the towing or booting, as applicable, of a vehicle that:

(1)  involves an authorized or unauthorized vehicle that has been left unattended on a parking facility for 30 minutes or less;

(2)  is made from or on, as applicable, a parking facility on which reserved or unreserved parking spaces remain available; and

(3)  is a result of the monitoring of a parking facility by a towing company or operator or booting company or operator.

(b)  A towing company or operator or booting company or operator may not engage in predatory towing or booting.

(c)  An agreement between a parking facility owner and a towing company or operator or booting company or operator, including a standard written agreement required under Section 2308.255(d), may not include a provision authorizing predatory towing or booting.

(d)  The commission by rule shall establish standards regarding the monitoring of a parking facility as described by Subsection (a)(3).

SECTION 6.  Section 2308.455, Occupations Code, is amended to read as follows:

Sec. 2308.455.  CONTENTS OF NOTICE. The notice under Section 2308.454 must include:

(1)  a statement of:

(A)  the person's right to submit a request within 60 [~~14~~] days for a court hearing to determine whether probable cause existed to remove, or install a boot on, the vehicle;

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

(C)  any filing fee for the hearing; and

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

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

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

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

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

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

(5)  the name, address, and telephone number of each justice court in the county from which the vehicle was towed or, for booted vehicles, the county in which the parking facility is 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 7.  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 60th [~~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 60-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 60-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 8.  Section 2308.458, Occupations Code, is amended by amending Subsections (c) and (c-1) to read as follows:

(c)  The issues in a hearing regarding a towed vehicle under this chapter are:

(1)  whether probable cause existed for the removal and placement of the vehicle;

(2)  whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized by the political subdivision under Section 2308.201 or 2308.202;

(3)  whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized under Section 2308.203; [~~or~~]

(4)  whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized under Section 2308.0575;

(5)  whether a towing company or operator engaged in predatory towing, as defined by Section 2308.408(a); and

(6)  whether a parking facility operator entered into an agreement with a towing company or operator authorizing predatory towing in violation of Section 2308.408(c).

(c-1)  The issues in a hearing regarding a booted vehicle under this chapter are:

(1)  whether probable cause existed for the booting of the vehicle; [~~and~~]

(2)  whether a boot removal charge imposed or collected in connection with the removal of the boot from the vehicle was greater than the amount authorized by the political subdivision under Section 2308.2085;

(3)  whether a booting company or operator engaged in predatory booting, as defined by Section 2308.408(a); and

(4)  whether a parking facility operator entered into an agreement with a booting company or operator authorizing predatory booting in violation of Section 2308.408(c).

SECTION 9.  Section 2308.253(e), Occupations Code, is repealed.

SECTION 10.  Not later than December 1, 2021, the Texas Department of Licensing and Regulation shall adopt rules as necessary to implement Section 2308.408, Occupations Code, as added by this Act.

SECTION 11.  The changes in law made by this Act apply only to the towing or booting of a vehicle initiated on or after January 1, 2022. The towing or booting of a vehicle initiated before January 1, 2022, is governed by the law in effect at the time the towing or booting was initiated, and the former law is continued in effect for that purpose.

SECTION 12.  (a) Except as provided by Subsection (b) of this section, this Act takes effect January 1, 2022.

(b)  Section 10 of this Act takes effect September 1, 2021.