

By: Guillen

H.B. No. 3265

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of tow truck companies,
tow trucks, tow truck operators, vehicle storage facilities,
vehicle storage facility employees, booting companies, and booting
operators.

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

SECTION 1. Section 2308.0011 is added to read as follows:
Section 2308.0011. PURPOSE. This Act is intended to promote public
safety by establishing comprehensive requirements within the
towing industry without imposing significant consequences upon
competitive market forces.

SECTION 2. Section 2308.002 is amended to read as follows:
DEFINITIONS. In this chapter:

(1) "Advisory board" means the Towing ~~and~~ and Storage ~~and Booting~~ Advisory Board.

(2) (1-a) ~~[(1-a)]~~ "Boot or booting" means a lockable road
wheel clamp or similar vehicle immobilization device that is
designed to immobilize a parked vehicle and prevent its movement
until the device is unlocked or removed.

(3) (1-b) ~~[(1-b)]~~ "Booting company" means a person that
controls, installs, or directs the installation and removal of one
or more boots.

(4) (1-c) ~~[(1-c)]~~ "Boot operator" means an individual who
installs or removes a boot on or from a vehicle.

1 (5) [~~(2)~~] "Commission" means the Texas Commission of
2 Licensing and Regulation.

3 (6) [~~(3)~~] "Consent tow" means any tow of a motor
4 vehicle in which the tow truck is summoned by the owner or operator
5 of the vehicle or by a person who has possession, custody, or
6 control of the vehicle. The term does not include an incident
7 management tow or a private property tow.

8 (7) [~~(4)~~] "Department" means the Texas Department of
9 Licensing and Regulation.

10 (8) [~~(5)~~] "Driver's license" has the meaning assigned
11 by Section [521.001](#), Transportation Code.

12 (9) [~~(5-a)~~] "Incident management tow" means any tow of
13 a vehicle in which the tow truck is summoned to the scene of a
14 traffic accident or to an incident, including the removal of a
15 vehicle, commercial cargo, and commercial debris from an accident
16 or incident scene.

17 (10) [~~(6)~~] "Nonconsent tow" means any tow of a motor
18 vehicle that is not a consent tow, including:

19 (A) an incident management tow; and

20 (B) a private property tow.

21 (11) [~~(7)~~] "Parking facility" means public or private
22 property used, wholly or partly, for restricted or paid vehicle
23 parking. The term includes:

24 (A) a restricted space on a portion of an
25 otherwise unrestricted parking facility; and

26 (B) a commercial parking lot, a parking garage,
27 and a parking area serving or adjacent to a business, church,

1 school, home that charges a fee for parking, apartment complex,
2 property governed by a property owners' association, or
3 government-owned property leased to a private person, including:

4 (i) a portion of the right-of-way of a
5 public roadway that is leased by a governmental entity to the
6 parking facility owner; and

7 (ii) the area between the facility's
8 property line abutting a county or municipal public roadway and the
9 center line of the roadway's drainage way or the curb of the
10 roadway, whichever is farther from the facility's property line.

11 (12) [~~(7-a)~~] "Parking facility authorized agent"
12 means an employee or agent of a parking facility owner with the
13 authority to:

14 (A) authorize the removal of a vehicle from the
15 parking facility on behalf of the parking facility owner; and

16 (B) accept service on behalf of the parking
17 facility owner of a notice of hearing requested under this chapter.

18 (13) [~~(8)~~] "Parking facility owner" means:

19 (A) an individual, corporation, partnership,
20 limited partnership, limited liability company, association,
21 trust, or other legal entity owning or operating a parking
22 facility;

23 (B) a property owners' association having
24 control under a dedicatory instrument, as that term is defined in
25 Section 202.001, Property Code, over assigned or unassigned parking
26 areas; or

27 (C) a property owner having an exclusive right

under a dedicatory instrument, as that term is defined in Section 202.001, Property Code, to use a parking space.

(14) "Peace officer" means an individual described in Article 2.12, Code of Criminal Procedure.

(15) [(8-a)] "Private property tow" means any tow of a vehicle authorized by a parking facility owner without the consent of the owner or operator of the vehicle.

~~(9) "Property owners' association" has the meaning assigned by Section 202.001, Property Code.~~

(16) [(10)] "Public roadway" means a public street, alley, road, right-of-way, or other public way, including paved and unpaved portions of the right-of-way.

(17) [(11)] "Tow truck" means a motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch, or otherwise move another motor vehicle. The term does not include:

(A) a motor vehicle owned and operated by a governmental entity, including a public school district;

(B) a motor vehicle towing:

(i) a race car;

(ii) a motor vehicle for exhibition; or

(iii) an antique motor vehicle;

(C) a recreational vehicle towing another vehicle;

(D) a motor vehicle used in combination with a tow bar, tow dolly, or other mechanical device if the vehicle is not operated in the furtherance of a commercial enterprise;

1 (E) a motor vehicle that is controlled or
2 operated by a farmer or rancher and used for towing a farm vehicle;
3 or

4 (F) a motor vehicle that:

5 (i) is owned or operated by an entity the
6 primary business of which is the rental of motor vehicles; and

7 (ii) only tows vehicles rented by the
8 entity.

9 (G) a motor vehicle that is owned or operated by a
10 person licensed under Chapter 2301 and transports vehicles during
11 the normal course of a transaction in which the entity is a party
12 and ownership or right of possession of the transported vehicle is
13 conveyed or transferred.

14 (H) a truck-tractor as defined in Section
15 621.001(8)(B), Transportation Code, and used solely to transport
16 motor vehicles as cargo in the course of a pre-arranged shipping
17 transaction, or for use in mining, drilling, or construction
18 operations. This exception does not apply to truck-tractors used
19 for the transportation of one or more motor vehicles under
20 circumstances that would otherwise constitute a nonconsent tow.

21 (18) [(12)] "Towing company" means an individual,
22 association, corporation, or other legal entity that controls,
23 operates, or directs the operation of one or more tow trucks over a
24 public roadway in this state but does not include a political
25 subdivision of the state.

26 (19) [(13)] "Unauthorized vehicle" means a vehicle
27 parked, stored, or located on a parking facility without the

1 consent of the parking facility owner.

2 (20) [~~(14)~~] "Vehicle" means a device in, on, or by
3 which a person or property may be transported on a public roadway.
4 The term includes an operable or inoperable automobile, truck,
5 motorcycle, recreational vehicle, or trailer but does not include a
6 device moved by human power or used exclusively on a stationary rail
7 or track.

8 (21) [~~(15)~~] "Vehicle owner" means a person:

9 (A) named as the purchaser or transferee in the
10 certificate of title issued for the vehicle under Chapter 501,
11 Transportation Code;

12 (B) in whose name the vehicle is registered under
13 Chapter 502, Transportation Code, or a member of the person's
14 immediate family;

15 (C) who holds the vehicle through a lease
16 agreement;

17 (D) who is an unrecorded lienholder entitled to
18 possess the vehicle under the terms of a chattel mortgage; or

19 (E) who is a lienholder holding an affidavit of
20 repossession and entitled to repossess the vehicle.

21 (22) [~~(16)~~] "Vehicle storage facility" means a
22 vehicle storage facility, as defined by Section 2303.002, that is
23 operated by a person who holds a license issued under Chapter 2303
24 to operate the facility.

25 SECTION 3. Section 2308.051(a) is amended to read as
26 follows: (a) The advisory board consists of the following members
27 appointed by the presiding officer of the commission with the

1 approval of the commission:

2 (1) one representative of a towing company operating
3 in a county in this state with a population of less than one
4 million;

5 (2) one representative of a towing company operating
6 in a county in this state with a population of one million or more;

7 (3) one representative of a towing company operating
8 in this state;

9 (4) one representative [~~owner~~] of a vehicle storage
10 facility operating [~~located~~] in a county in this state with a
11 population of less than one million;

12 (5) [~~(4)~~] one representative [~~owner~~] of a vehicle
13 storage facility operating [~~located~~] in a county in this state with
14 a population of one million or more;

15 (6) one representative of a vehicle storage facility
16 operating in this state;

17 (7) [~~(5)~~] one parking facility owner;

18 (8) [~~(6)~~] one peace [~~law enforcement~~] officer
19 employed by a subdivision of this state in [~~from~~] a county with a
20 population of less than one million;

21 (9) [~~(7)~~] one peace [~~law enforcement~~] officer
22 employed by a subdivision of this state in [~~from~~] a county with a
23 population of one million or more;

24 (10) [~~(8)~~] one individual employed by the Department
25 of Public Safety, as defined in Chapter 411, Government Code;

26 (11) one representative of a member insurer of the
27 Texas Property and Casualty Insurance Guaranty Association, as

1 defined by Chapter 462, Insurance Code, [~~property and casualty~~
2 ~~insurers]~~ who writes [~~write~~] automobile insurance in this state;
3 and

4 ~~(9) one public member.~~

5 (12) one representative of a motor carrier registered
6 under Chapter 643, Transportation Code; and

7 (13) one public member who resides in this state.

8 SECTION 4. Section 2308.057 is amended to read as follows:
9 The commission shall adopt rules for:

10 (1) permitting tow trucks [~~and licensing towing~~
11 ~~operators, towing companies, booting companies, and boot~~
12 ~~operators. The commission may adopt different rules applicable to~~
13 ~~each type of permit or license.];~~

14 (2) licensing towing operators and towing companies;

15 (3) standards of conduct for license and permit
16 holders under this chapter;

17 (4) requirements for a consent tow, private property
18 tow, and incident management tow; and

19 (5) [~~The commission shall adopt rules for~~] denial of
20 applications and permits under this chapter if the applicant, a
21 partner, principal, officer, or general manager of the applicant,
22 or other license or permit holder has:

23 (A) a criminal conviction[~~7~~] or deferred
24 adjudication [~~7, or has pleaded guilty or nolo contendere to an~~
25 ~~offense, before the date of the application,~~] that makes the
26 applicant an unsuitable candidate for the license [~~for:~~

27 ~~(i) a felony; or~~

1 ~~(ii) a misdemeanor punishable by~~
2 ~~confinement in jail or by a fine in an amount that exceeds \$500];~~

3 (B) violated an order of the commission or
4 executive director, including an order for sanctions or
5 administrative penalties;

6 (C) failed to submit a license or permit bond in
7 an amount established by the commission;

8 (D) knowingly submitted false or incomplete
9 information on the application; or

10 (E) filed an application to permit a tow truck
11 previously permitted by a license or permit holder.

12 ~~[(b) The commission by rule shall adopt:~~

13 ~~(1) standards of conduct for license and permit~~
14 ~~holders under this chapter; and~~

15 ~~(2) requirements for a consent tow, private property~~
16 ~~tow, and incident management tow.]~~

17 SECTION 5. Section 2308.0575 (b) is amended to read as
18 follows: (b) In adopting rules under Subsection (a), the
19 commission may ~~[shall]~~ contract for a study that:

20 (1) examines towing fee studies conducted by
21 municipalities in this state; and

22 (2) analyzes the cost of towing services by company,
23 the consumer price index, the geographic area, and individual cost
24 components.

25 SECTION 6. Section 2308.0575 (f) is amended to read as
26 follows: (f) The department may ~~[shall]~~ contract to conduct a
27 study on private property towing fees under this section at least

1 once every two years.

2 SECTION 7. Section 2308.059 is amended to read as follows:

3 Sec. 2308.059. PERIODIC [~~AND RISK-BASED~~] INSPECTIONS. (a)
4 The department may enter and inspect at any time during business
5 hours:

6 (1) the place of business of any person regulated
7 under this chapter; or

8 (2) any place in which the department has
9 reasonable cause to believe that a license or permit holder is in
10 violation of this chapter or in violation of a rule or order of the
11 commission or executive director.

12 [~~(b) The department shall conduct additional inspections~~
13 ~~based on a schedule of risk-based inspections using the following~~
14 ~~criteria:~~

15 ~~(1) the type and nature of the towing company or~~
16 ~~operator;~~

17 ~~(2) the inspection history;~~

18 ~~(3) any history of complaints involving the towing~~
19 ~~company or operator; and~~

20 ~~(4) any other factor determined by the commission by~~
21 ~~rule.~~

22 ~~(c) The towing company shall pay a fee for each risk-based~~
23 ~~inspection performed under this section. The commission by rule~~
24 ~~shall set the amount of the fee.]~~

25 (b) [~~(d)~~] In conducting an inspection under this section,
26 the department may inspect a vehicle, a facility, business records,
27 or any other place or thing reasonably required to enforce this

chapter or a rule or order adopted under this chapter.

SECTION 8. The title to Section 2308.102 is amended to read as follows: Sec. 2308.102. GENERAL APPLICATION REQUIREMENTS.

SECTION 9. Section 2308.103 is amended to read as follows:

Sec. 2308.103. REQUIREMENTS FOR INCIDENT MANAGEMENT TOWING PERMIT. (a) An incident management towing permit is required for a tow truck used to perform any nonconsent tow ~~[initiated by a peace officer,~~ including a tow authorized under Section 545.3051, Transportation Code.

(b) To be eligible for an incident management towing permit, an applicant must submit evidence that:

(1) the tow truck is equipped to tow light-duty or heavy-duty vehicles according to the manufacturer's towing guidelines;

(2) the applicant has at least \$500,000 of liability insurance for the tow truck; and

(3) the applicant has at least \$50,000 of cargo insurance for the tow truck.

(c) A tow truck permitted under this section may also be used for private property towing and consent towing.

~~[(d) When a tow truck is used for a nonconsent tow initiated by a peace officer under Section 545.3051, Transportation Code, the permit holder is an agent of law enforcement and is subject to Section 545.3051(c), Transportation Code.]~~

SECTION 10. Section 2308.105(a) is amended to read as follows: (a) A consent towing permit is required for a tow truck used to perform a consent tow ~~[authorized by the vehicle owner]~~.

SECTION 11. Section 2308.106(b) is amended to read as follows:

(b) The department shall issue a certificate containing a single unique permit number for each tow truck ~~[regardless of whether the permit holder holds more than one permit]~~.

SECTION 12. Section 2308.107(b) is amended to read as follows: (b) The department shall notify the permit holder at least 30 days before the date a permit expires. The notice must be in writing and sent to the permit holder's last known mailing or email address according to the records of the department.

SECTION 13. Section 2308.151 is amended to read as follows:

Sec. 2308.151. LICENSE REQUIRED. Unless the person holds an appropriate license under this subchapter, a person may not:

(1) perform towing operations; or

(2) operate a towing company;

~~(3) perform booting operations; or~~

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

SECTION 14. Section 2308.153 is amended to read as follows:

Sec. 2308.153. INCIDENT MANAGEMENT TOWING OPERATOR'S LICENSE. (a) An incident management towing operator's license is required to operate a tow truck permitted under Section 2308.103.

(b) An applicant for an incident management towing operator's license must:

(1) hold a valid driver's license issued by a state in the United States; and

(2) be certified by a program approved by the department.

1 (c) A person licensed under this section is authorized to
2 work at a licensed vehicle storage facility under chapter 2303.

3 SECTION 15. Section 2308.154 is amended to read as follows:

4 Sec. 2308.154. PRIVATE PROPERTY TOWING OPERATOR'S LICENSE.

5 (a) A private property towing operator's license is required to
6 operate a tow truck permitted under Section 2308.104.

7 (b) An applicant for a private property towing operator's
8 license must:

9 (1) hold a valid driver's license issued by a state in
10 the United States; and

11 (2) be certified by a program approved by the
12 department.

13 (c) A person licensed under this section is authorized to
14 work at a licensed vehicle storage facility under chapter 2303.

15 SECTION 16. Section 2308.155 is amended to read as follows:

16 Sec. 2308.155. CONSENT TOWING OPERATOR'S LICENSE. (a) a
17 consent towing operator's license is required to operate a tow
18 truck permitted under Section 2308.105.

19 (b) An applicant for a consent towing operator's license
20 must hold a valid driver's license issued by a state in the United
21 States.

22 (c) A person licensed under this section is authorized to
23 work at a licensed vehicle storage facility under chapter 2303.

24 SECTION 17. Section 2308.159(b) is amended to read as
25 follows: (b) The department shall notify the license holder at
26 least 30 days before the date a license expires. The notice must be
27 in writing and sent to the license holder's last known mailing or

1 email address according to the records of the department.

2 SECTION 18. Section 2308.205(a) is amended to read as
3 follows: (a) A towing company that makes a nonconsent tow shall tow
4 the vehicle to a vehicle storage facility that is operated by a
5 person who holds a license to operate the facility under Chapter
6 2303 or to a facility that is owned or leased by a governmental
7 entity unless the towing company agrees to take the vehicle to:

8 (1) a location designated by the vehicle's owner; or
9 (2) another location on the same parking facility from
10 which the vehicle was towed, according to commission rules,
11 provided there is no charge to the vehicle owner, operator, or
12 lienholder.

13 SECTION 19. Section 2308.2085 is amended to read as
14 follows:

15 POLITICAL SUBDIVISIONS AND INSTITUTIONS OF HIGHER EDUCATION
16 ~~[MUNICIPAL]~~ REGULATING BOOTING COMPANIES AND OPERATORS. ~~(a)~~ A
17 political subdivision of this state and institutions of higher
18 education in this state ~~[municipality]~~ may regulate ~~[adopt an~~
19 ~~ordinance or policy]~~ booting activities including booting
20 companies and operators that operate on a parking facility located
21 in their jurisdiction, including permit and sign requirements and
22 setting ~~[that is identical to the booting provisions in this~~
23 ~~chapter or that imposes additional requirements that exceed the~~
24 ~~minimum standards of the booting provisions in this chapter but may~~
25 ~~not adopt an ordinance that conflicts with the booting provisions~~
26 ~~in this chapter.~~

27 ~~(b) A municipality may regulate]~~ the fees that may be

1 charged in connection with the booting of a vehicle[, ~~including~~
2 ~~associated parking fees~~].

3 ~~[(c) A municipality may require booting companies to obtain~~
4 ~~a permit to operate in the municipality.]~~

5 SECTION 20. The title of Section 2308.252 is amended to read
6 as follows:

7 ~~[REMOVAL]~~ TOWING AND STORAGE OF UNAUTHORIZED VEHICLE.

8 SECTION 21. Section 2308.252(a) is amended to read as
9 follows: (a) A parking facility owner may, without the consent of
10 the owner or operator of an unauthorized vehicle, cause the vehicle
11 and any property on or in the vehicle to be towed ~~[removed]~~ and
12 stored at a vehicle storage facility at the vehicle owner's or
13 operator's expense if:

14 (1) signs that comply with Subchapter G prohibiting
15 unauthorized vehicles are located on the parking facility at the
16 time of towing and for the preceding 24 hours and remain installed
17 at the time of towing;

18 (2) the owner or operator of the vehicle has received
19 actual notice from the parking facility owner that the vehicle will
20 be towed at the vehicle owner's or operator's expense if it is in or
21 not removed from an unauthorized space;

22 (3) the parking facility owner gives notice to the
23 owner or operator of the vehicle under Subsection (b); or

24 (4) on request the parking facility owner provides to
25 the owner or operator of the vehicle information on the name of the
26 towing company and vehicle storage facility that will be used to tow
27 ~~[remove]~~ and store the vehicle and the vehicle is:

(A) left in violation of Section 2308.251 or 2308.253; or

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

SECTION 22. Section 2308.253 (d) is amended to read as follows: (d) ~~[Except as provided by a contract described by Subsection (e), a]~~ A parking facility owner may not have a vehicle towed ~~[removed]~~ from the parking facility solely ~~[merely]~~ because the vehicle is in violation of the registration or inspection requirements ~~[does not display]~~:

~~[(1) an unexpired license plate or registration insignia issued for the vehicle]~~ under Chapter 502 or Chapter 548, Transportation Code, or the vehicle registration law of another state or country ~~[, or~~

~~[(2) a valid vehicle inspection certificate issued under Chapter 548, Transportation Code, or the vehicle inspection law of another state or country].~~

SECTION 23. Section 2308.253 (g) is amended to read as follows: (g) A provision of an apartment lease or rental agreement ~~[entered into or renewed on or after January 1, 2004,]~~ that is in conflict or inconsistent with this section is void and may not be enforced.

SECTION 24. Section 2308.254 is amended to read as follows: Sec. 2308.254. LIMITATION ON PARKING FACILITY OWNER'S AUTHORITY TO TOW ~~[REMOVE]~~ UNAUTHORIZED VEHICLE. A parking facility owner may not have an unauthorized vehicle towed ~~[removed]~~ from the facility

1 except:

2 (1) as provided by this chapter or a municipal
3 ordinance that complies with Section 2308.208; or

4 (2) under the direction of a peace officer or the owner
5 or operator of the vehicle.

6 SECTION 25. Section 2308.255 is amended to read as follows:

7 Sec. 2308.255. TOWING COMPANY'S ~~[OR BOOT OPERATOR'S]~~ AUTHORITY TO
8 TOW ~~[REMOVE]~~ AND STORE ~~[OR BOOT]~~ UNAUTHORIZED VEHICLE. (a) A towing
9 company ~~[that is insured as provided by Subsection (c)]~~ may,
10 without the consent of an owner or operator of an unauthorized
11 vehicle, tow ~~[remove]~~ and store a ~~[the]~~ vehicle at a vehicle storage
12 facility at the expense of the owner or operator of the vehicle if:

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

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

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

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

24 (A) left in violation of Section 2308.251;

25 (B) in or obstructing a portion of a paved
26 driveway; or

27 (C) on a public roadway used for entering or

1 exiting the facility and the tow ~~[remove]~~ is approved by a peace
2 officer.

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

5 (1) this chapter;

6 (2) a municipal ordinance that complies with Section
7 2308.208; ~~[or]~~

8 (3) the direction of a peace officer; or ~~[+]~~

9 (4) the direction of the owner or operator of the
10 vehicle.

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

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

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

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

22 (e) When a tow truck is used for a nonconsent tow initiated
23 by a peace officer under Section 545.3051, Transportation Code, the
24 tow truck's towing operator and towing company is an agent of law
25 enforcement and is subject to Section 545.3051(e), Transportation
26 Code.

27 SECTION 26. Section 2308.301 is amended to read as follows:

1 Sec. 2308.301. GENERAL REQUIREMENTS FOR SIGN PROHIBITING
2 UNAUTHORIZED VEHICLES. (a) Except as provided by Subsection
3 (a)(2)(B) and Section 2308.304 or 2308.305, an unauthorized vehicle
4 may not be towed under Section 2308.252(a)(1) [~~or booted under~~
5 ~~Section 2308.257~~] unless a sign prohibiting unauthorized vehicles
6 on a parking facility is:

7 (1) facing and conspicuously visible to the driver of
8 a vehicle that enters the facility;

9 (2) located:

10 (A) on the right or left side of each driveway or
11 curb-cut through which a vehicle can enter the facility, including
12 an entry from an alley abutting the facility; or

13 (B) at intervals along the entrance so that no
14 entrance is farther than 25 feet from a sign if:

15 (i) curbs, access barriers, landscaping, or
16 driveways do not establish definite vehicle entrances onto a
17 parking facility from a public roadway other than an alley; and

18 (ii) the width of an entrance exceeds 35
19 feet;

20 (3) permanently mounted on a pole, post, permanent
21 wall, or permanent barrier;

22 (4) installed on the parking facility; and

23 (5) installed so that the bottom edge of the sign is no
24 lower than five feet and no higher than eight feet above ground
25 level.

26 (b) Except as provided by Section 2308.305, an unauthorized
27 vehicle may be towed under Section 2308.252(a)(1) or booted under

1 Section 2308.257 only if each sign prohibiting unauthorized
2 vehicles:

3 (1) is made of weather-resistant material;

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

5 (3) contains the international symbol for towing
6 vehicles;

7 (4) contains a statement describing who may park in
8 the parking facility and that ~~[prohibiting]~~ all others are
9 prohibited;

10 (5) bears the words, as applicable:

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

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

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

17 (6) contains a statement of the days and hours of
18 towing and booting enforcement; and

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

23 SECTION 27. Section 2308.302(e) is amended to read as
24 follows: (e) The bottommost portion of the sign must contain the
25 telephone numbers required by Section 2308.301(b), in lettering at
26 least one inch in height and may, if the facility owner chooses or
27 if an applicable municipal ordinance requires, include the name and

1 address of the storage facility to which an unauthorized vehicle
2 will be towed ~~[removed]~~. The lettering on this portion of the sign
3 must consist of white letters on a bright red background.

4 SECTION 28. Section 2308.304 is amended to read as follows:

5 Sec. 2308.304. DESIGNATION OF RESTRICTED PARKING SPACES ON
6 OTHERWISE UNRESTRICTED PARKING FACILITY. A parking facility owner
7 may designate one or more spaces as restricted parking spaces on a
8 portion of an otherwise unrestricted parking facility. Instead of
9 installing a sign at each entrance to the parking facility as
10 provided by Section 2308.301(a)(2), an owner may place a sign that
11 prohibits unauthorized vehicles from parking in designated spaces
12 and that otherwise complies with Sections 2308.301 and 2308.302:

13 (1) at the right or left side of each entrance to a
14 designated area or group of parking spaces located on the
15 restricted portion of the parking facility; or

16 (2) at the end of a restricted parking space so that
17 the sign, the top of which must not be higher than seven feet above
18 the ground, is facing the parking space ~~[in front of a vehicle that~~
19 ~~is parked in the space and the rear of which is at the entrance of~~
20 ~~the space]~~.

21 SECTION 29. Section 2308.305(a) is amended to read as
22 follows: (a) A parking facility owner who complies with Sections
23 2308.301 and 2308.302 may impose further specific parking
24 restrictions in an area to which the signs apply for individual
25 spaces by installing or painting a weather-resistant sign or notice
26 on a curb, pole, post, permanent wall, or permanent barrier so that
27 the sign is facing the parking space ~~[in front of a vehicle that is~~

1 ~~parked in the space and the rear of which is at the entrance of the~~
2 ~~space~~].

3 SECTION 30. Section 2308.351 is amended to read as follows:

4 Sec. 2308.351. TOWING ~~[REMOVAL]~~ OF UNAUTHORIZED VEHICLE
5 FROM LEASED RIGHT-OF-WAY. Unless prohibited by the lease, a
6 parking facility owner or towing company may tow ~~[remove]~~ an
7 unauthorized vehicle parked in a leased area described by Section
8 2308.002(7)(B)(i) if the owner or towing company gives notice under
9 Section 2308.252(a)(1), (2), or (3) and otherwise complies with
10 this chapter.

11 SECTION 31. Section 2308.352 is amended to read as follows:

12 Sec. 2308.352. TOWING ~~[REMOVAL]~~ OF UNAUTHORIZED VEHICLE
13 FROM AREA BETWEEN PARKING FACILITY AND PUBLIC ROADWAY. Unless
14 prohibited by a municipal ordinance, a parking facility owner or
15 towing company may tow ~~[remove]~~ an unauthorized vehicle any part of
16 which is in an area described by Section 2308.002(7)(B)(ii) if
17 notice provided by Section 2308.252(a)(2) or (3) is given and the
18 owner or towing company has otherwise complied with this chapter.

19 SECTION 32. Section 2308.353 is amended to read as follows:

20 Sec. 2308.353. TOWING ~~[REMOVAL]~~ UNDER GOVERNMENTAL
21 ENTITY'S AUTHORITY OF UNAUTHORIZED VEHICLE PARKED IN RIGHT-OF-WAY.

22 (a) A governmental entity that has jurisdiction over a
23 public roadway and that has posted one or more signs in the
24 right-of-way stating that parking is prohibited in the right-of-way
25 may:

26 (1) tow ~~[remove]~~ or contract with a towing company to
27 tow ~~[remove]~~ an unauthorized vehicle parked in the right-of-way of

1 the public roadway; or

2 (2) grant written permission to an abutting parking
3 facility owner to:

4 (A) post one or more "No parking in R.O.W." signs
5 along a common property line of the facility and the roadway; and

6 (B) tow [~~remove~~] vehicles from the right-of-way
7 of the public roadway under this chapter.

8 (b) A sign under Subsection (a)(2) must:

9 (1) state that a vehicle parked in the right-of-way
10 may be towed at the expense of the owner or operator of the vehicle;

11 (2) be placed facing the public roadway:

12 (A) on the parking facility owner's property not
13 more than two feet from the common boundary line; and

14 (B) at intervals so that no point in the boundary
15 line is less than 25 feet from a sign posted under this subsection;
16 and

17 (3) in all other respects comply with Subchapter G.

18 (c) After signs have been posted under Subsection (b), the
19 parking facility owner or a towing company may tow [~~remove~~] an
20 unauthorized vehicle from the right-of-way subject to the
21 governmental entity's written permission given under Subsection
22 (a)(2).

23 SECTION 33. Section 2308.354 is amended to read as follows:

24 Sec. 2308.354. AUTHORITY FOR TOWING [~~REMOVAL~~] OF VEHICLE
25 FROM PUBLIC ROADWAY. (a) Under an ordinance of a municipality
26 regulating the parking of vehicles in the municipality, to aid in
27 the enforcement of the ordinance, an employee designated by the

1 municipality may be authorized to:

2 (1) immobilize a vehicle parked in the municipality;
3 and

4 (2) tow ~~[remove]~~ an immobilized vehicle from a public
5 roadway in the municipality.

6 (b) A parking facility owner or towing company may not tow
7 ~~[remove]~~ a vehicle from a public roadway except under:

8 (1) this chapter or a municipal ordinance that
9 complies with Section 2308.208; or

10 (2) the direction of a peace officer or the owner or
11 operator of the vehicle.

12 (c) In addition to the authority granted under Subsection
13 (a) and to aid in the enforcement of an ordinance regulating the
14 parking of vehicles, a municipality with a population of 1.9
15 million or more may authorize a designated employee to request the
16 towing ~~[removal]~~ of a vehicle parked illegally in an area
17 designated as a tow-away zone in a residential area where on-street
18 parking is regulated by the ordinance.

19 (d) Subsections (a) and (c) do not apply to a vehicle owned
20 by an electric, gas, water, or telecommunications utility while the
21 vehicle is parked for the purpose of conducting work on a facility
22 of the utility that is located below, above, or adjacent to the
23 street.

24 SECTION 34. The title of Subchapter I is amended to read as
25 follows: SUBCHAPTER I. REGULATION OF TOWING COMPANIES [~~—BOOTING~~
26 ~~COMPANIES—~~] AND PARKING FACILITY OWNERS

27 SECTION 35. Section 2308.403 is amended to read as follows:

1 Sec. 2308.403. LIMITATION ON LIABILITY OF PARKING FACILITY
2 OWNER FOR TOWING [~~REMOVAL~~] OR STORAGE OF UNAUTHORIZED VEHICLE. A
3 parking facility owner who causes the towing [~~removal~~] of an
4 unauthorized vehicle is not liable for damages arising from the
5 towing [~~removal~~] or storage of the vehicle if the vehicle:

6 (1) was towed [~~removed~~] in compliance with this
7 chapter; and

8 (2) is:

9 (A) towed [~~removed~~] by a towing company insured
10 against liability for property damage incurred in towing a vehicle;
11 and

12 (B) stored by a vehicle storage facility insured
13 against liability for property damage incurred in storing a
14 vehicle.

15 SECTION 36. Section 2308.404 is amended to read as follows:

16 Sec. 2308.404. CIVIL LIABILITY OF TOWING COMPANY, BOOTING
17 COMPANY, OR PARKING FACILITY OWNER FOR VIOLATION OF CHAPTER. (a) A
18 towing company, booting company, or parking facility owner who
19 violates this chapter, or a regulation enacted pursuant to Section
20 2308.2085 of this chapter, is liable to the owner or operator of the
21 vehicle that is the subject of the violation for:

22 (1) damages arising from the towing [~~removal~~],
23 storage, or booting of the vehicle; and

24 (2) towing, storage, or booting fees assessed in
25 connection with the vehicle's removal, storage, or booting.

26 (b) A vehicle's owner or operator is not required to prove
27 negligence of a parking facility owner, towing company, or booting

1 company to recover under Subsection (a).

2 (c) A towing company, booting company, or parking facility
3 owner who intentionally, knowingly, or recklessly violates this
4 chapter is liable to the owner or operator of the vehicle that is
5 the subject of the violation for \$1,000 plus three times the amount
6 of fees assessed in the vehicle's ~~[removal]~~ towing, storage, or
7 booting.

8 SECTION 37. Section 2308.451 is amended to read as follows:

9 Sec. 2308.451. PAYMENT OF COST OF TOWING ~~[REMOVAL]~~, STORAGE,
10 AND BOOTING OF VEHICLE. (a) If in a hearing held under this
11 subchapter ~~[chapter]~~ the court finds that a person or law
12 enforcement agency authorized, with probable cause, the towing
13 ~~[removal]~~ and storage in a vehicle storage facility of a vehicle,
14 the person who requested the hearing shall pay the costs of the
15 towing ~~[removal]~~ and storage.

16 (b) If in a hearing held under this subchapter ~~[chapter]~~ the
17 court does not find that a person or law enforcement agency
18 authorized, with probable cause, the towing ~~[removal]~~ and storage
19 in a vehicle storage facility of a vehicle, the towing company,
20 vehicle storage facility, or parking facility owner, or law
21 enforcement agency that authorized the tow ~~[removal]~~ shall:

22 (1) pay the costs of the towing ~~[removal]~~ and storage;
23 or

24 (2) reimburse the owner or operator for the cost of the
25 towing ~~[removal]~~ and storage paid by the owner or operator.

26 (c) If in a hearing held under this subchapter ~~[chapter]~~ the
27 court finds that a person authorized, with probable cause, the

booting of a vehicle in a parking facility, the person who requested the hearing shall pay the costs of the booting.

(d) [~~(c-1)~~] If, in a hearing held under this subchapter [~~chapter~~], regardless of whether the court finds that there was probable cause for the towing [~~removal~~] towing and storage of a vehicle, the court finds that the towing charge collected exceeded fees regulated by a political subdivision or authorized by this chapter or Chapter 2303, the towing company shall reimburse the owner or operator of the vehicle an amount equal to the overcharge.

(e) [~~(d)~~] If in a hearing held under this subchapter [~~chapter~~] the court does not find that a person authorized, with probable cause, the booting of a vehicle, the person that authorized the booting shall:

(1) pay the costs of the booting and any related parking fees; or

(2) reimburse the owner or operator for the cost of the booting and any related parking fees paid by the owner or operator.

SECTION 38. Section 2308.452 is amended to read as follows:

Sec. 2308.452. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO HEARING. The owner or operator of a vehicle that has been towed [~~removed~~] and placed in a vehicle storage facility or booted without the consent of the owner or operator of the vehicle is entitled to a hearing on whether probable cause existed for the towing [~~removal and~~], storage, [~~placement~~] or booting.

SECTION 39. Section 2308.453 is amended to read as follows:

Sec. 2308.453. JURISDICTION. (a) A hearing under this subchapter shall be in any justice court in:

(1) the county from which the motor vehicle was towed,
or

(2) for booted vehicles, the county in which the
parking facility is located.

(b) Notwithstanding the amount in controversy, justice
courts shall have exclusive original jurisdiction over hearings
under this subchapter.

SECTION 40. Section 2308.454 is amended to read as follows:

Sec. 2308.454. NOTICE TO VEHICLE OWNER OR OPERATOR. (a) If
before a hearing held under this subchapter [~~chapter~~] the owner or
operator of a vehicle pays the costs of the vehicle's towing
~~[removal]~~ or storage, the towing company or vehicle storage
facility that received the payment shall at the time of payment give
the owner or operator written notice of the person's rights under
this subchapter [~~chapter~~].

(b) The operator of a vehicle storage facility that sends a
notice under Subchapter D, Chapter 2303, shall include with that
notice a notice of the person's rights under this subchapter
[~~chapter~~].

(c) If before a hearing held under this subchapter [~~chapter~~]
the owner or operator of a vehicle pays the costs for removal of a
boot, the booting company shall at the time of payment give the
owner or operator written notice of the person's rights under this
subchapter [~~chapter~~].

(d) The booting operator that places a notice on a booted
vehicle under Section 2308.257 shall include with that notice a
notice of the person's rights under this subchapter [~~chapter~~].

1 (e) If the towing company or vehicle storage facility that
2 received the payment fails to furnish to the owner or operator of
3 the vehicle the name, address, and telephone number of the parking
4 facility owner or law enforcement agency that authorized the towing
5 ~~[removal]~~ of the vehicle, the towing company or vehicle storage
6 facility that received the payment is liable if the court, after a
7 hearing, does not find probable cause for the towing ~~[removal]~~ and
8 storage of the vehicle.

9 SECTION 41. Section 2308.455 is amended to read as follows:

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

12 (1) a statement of:

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

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

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

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

21 (i) the county from which the vehicle was
22 towed; ~~[or]~~

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

25 (2) the name, address, and telephone number of the
26 towing company that towed ~~[removed]~~ the vehicle or the booting
27 company that booted the vehicle;

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

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

7 (5) the name, address, and telephone number of each
8 justice court in the county from which the vehicle was towed or, for
9 booted vehicles, the county in which the parking facility is
10 located, or the address of an Internet website maintained by the
11 Office of Court Administration of the Texas Judicial System that
12 contains the name, address, and telephone number of each justice
13 court in that county.

14 SECTION 42. Section 2308.456 is amended to read as follows:

15 Sec. 2308.456. REQUEST FOR HEARING. (a) Except as provided
16 by Subsections (c) and (d) [~~(c-1)~~], a person entitled to a hearing
17 under this subchapter [~~chapter~~] must deliver a written request for
18 the hearing to the court before the 14th day after the date the
19 vehicle was towed [~~removed~~] and placed in the vehicle storage
20 facility or booted, excluding Saturdays, Sundays, and legal
21 holidays.

22 (b) A request for a hearing must contain:

23 (1) the name, address, and, telephone number of the
24 owner or operator of the vehicle;

25 (2) the location from which the vehicle was towed
26 [~~removed~~] or in which the vehicle was booted;

27 (3) the date when the vehicle was towed [~~removed~~] or

1 booted;

2 (4) the name, address, and telephone number of the
3 person or law enforcement agency that authorized the tow ~~[removal]~~
4 or booting;

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

7 (6) the name, address, and telephone number of the
8 towing company that towed ~~[removed]~~ the vehicle or of the booting
9 company that installed a boot on the vehicle;

10 (7) a copy of any receipt or notification that the
11 owner or operator received from the towing company, the booting
12 company, or the vehicle storage facility; and

13 (8) if the vehicle was towed ~~[removed]~~ from or booted
14 in a parking facility:

15 (A) one or more photographs that show the
16 location and text of any sign posted at the facility restricting
17 parking of vehicles; or

18 (B) a statement that no sign restricting parking
19 was posted at the parking facility.

20 (c) If notice was not given under Section 2308.454, the
21 14-day deadline for requesting a hearing under Subsection (a) does
22 not apply, and the owner or operator of the vehicle may deliver a
23 written request for a hearing at any time.

24 (d) ~~[(c-1)]~~ The 14-day period for requesting a hearing
25 under Subsection (a) does not begin until the date on which the
26 towing company or vehicle storage facility provides to the vehicle
27 owner or operator the information necessary for the vehicle owner

1 or operator to complete the material for the request for hearing
2 required under Subsections (b)(2) through (6).

3 (e) [~~(d)~~] A person who fails to deliver a request in
4 accordance with Subsection (a) waives the right to a hearing.

5 SECTION 43. Section 2308.458 is amended to read as follows:

6 Sec. 2308.458. HEARING. (a) A hearing under this
7 subchapter [~~chapter~~] shall be held before the 21st calendar day
8 after the date the court receives the request for the hearing.

9 (b) The court shall notify the person who requested the
10 hearing for a towed vehicle, the parking facility owner or law
11 enforcement agency that authorized the towing [~~removal~~] of the
12 vehicle, the towing company, and the vehicle storage facility in
13 which the vehicle was placed of the date, time, and place of the
14 hearing in a manner provided by Rule 21a, Texas Rules of Civil
15 Procedure. The notice of the hearing to the towing company and the
16 parking facility owner or law enforcement agency that authorized
17 the towing [~~removal~~] of the vehicle must include a copy of the
18 request for hearing. Notice to the law enforcement agency that
19 authorized the towing [~~removal~~] of the vehicle is sufficient as
20 notice to the political subdivision in which the law enforcement
21 agency is located.

22 (c) [~~(b-1)~~] At a hearing under this section:

23 (1) the burden of proof is on the person who
24 requested the hearing; and

25 (2) hearsay evidence is admissible if it is
26 considered otherwise reliable by the justice of the peace.

27 (d) [~~(b-2)~~] The court shall notify the person who requested

the hearing for a booted vehicle, the parking facility in which the vehicle was booted, and the booting company of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure. The notice of hearing to the person that authorized the booting of the vehicle must include a copy of the request for hearing.

(e) ~~[(c)]~~ The issues in a hearing regarding a towed vehicle under this subchapter ~~[chapter]~~ are:

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

(2) whether a towing charge imposed or collected in connection with the towing ~~[removal]~~ or placement of the vehicle was greater than the amount authorized by the political subdivision under Subchapter E; or ~~[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 towing ~~[removal]~~ or placement of the vehicle was greater than the amount authorized under Section 2308.0575.

(f) ~~[(c-1)]~~ The issues in a hearing regarding a booted vehicle under this subchapter ~~[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

1 under Section 2308.2085.

2 (d) [~~(c)~~] The court shall make written findings of fact and
3 conclusions of law.

4 (e) [~~(h)~~] The court may award:

5 (1) court costs and attorney's fees to the prevailing
6 party;

7 (2) the reasonable cost of photographs submitted under
8 Section 2308.456(b)(8) to a vehicle owner or operator who is the
9 prevailing party;

10 (3) an amount equal to the amount that the towing
11 charge or booting removal charge and associated parking fees
12 exceeded fees regulated by a political subdivision or authorized by
13 this code or by Chapter 2303; and

14 (4) reimbursement of fees paid for vehicle towing,
15 storage, or removal of a boot.

16 SECTION 44. Section 2308.504 is amended to read as follows:

17 Sec. 2308.504. CRIMINAL PENALTY; LICENSING. (a) A person
18 commits an offense if the person:

19 (1) violates the permitting or licensing requirements
20 of this chapter;

21 (2) performs towing without a license to perform
22 towing in this state; or

23 (3) employs an individual who does not hold the
24 appropriate license required by this chapter [~~or~~

25 ~~(4) falsifies a certification or training~~].

26 (b) An offense under this section is a Class C misdemeanor.

27 An offense under this section is enforceable by law enforcement.

SECTION 45. Section 2308.505(a) is amended to read as follows: Sec. 2308.505. CRIMINAL PENALTY; TOWING. (a) A person commits an offense if the person:

(1) violates an ordinance, resolution, order, rule, or regulation of a political subdivision adopted under Section 2308.201, 2308.202, or 2308.2085 for which the political subdivision does not prescribe the penalty;

(2) charges or collects a fee in a political subdivision that regulates the operation of tow trucks under Section 2308.201 or 2308.202 or booting under Section 2308.2085 that is not authorized or is greater than the authorized amount of the fee;

~~[(3) charges or collects a fee greater than the amount authorized under Section 2308.204,~~

~~(4) charges or collects a fee in excess of the amount filed with the department under Section 2308.206,]~~

(3) ~~[(5)]~~ violates Section 2308.205 or 2308.2065; or

(4) ~~[(6)]~~ violates a rule of the department applicable to a tow truck~~[,]~~ or towing company~~[, or booting company]~~.

SECTION 46. Section 2303.0011 is added to read as follows:
Section 2303.0011. PURPOSE. This Act is intended to promote public safety by establishing comprehensive requirements within the vehicle storage facility industry without imposing significant consequences upon competitive market forces.

SECTION 47. Section 2303.002 is amended by adding a new subsection (3) and renumbering the existing sections. The new 2303.002(3) reads as follows:

Sec. 2303.002. DEFINITIONS. In this chapter:

(1) "Abandoned nuisance vehicle" means a motor vehicle that is:

(A) at least 10 years old; and

(B) of a condition only to be demolished, wrecked, or dismantled.

(2) "Commission" means the Texas Commission of Licensing and Regulation.

(3) "Commercial cargo" means any property in or on a self-propelled or towed motor vehicle that has been transported in interstate or intrastate commerce.

SECTION 48. Section 2303.1015(a) is amended to read as follows:

Sec. 2303.1015. EMPLOYEE LICENSE REQUIRED. (a) A person may not work at a vehicle storage facility unless the person holds a license issued under this chapter or under Section 2308.1521.

SECTION 49. Section 2303.056 is amended to read as follows:

Sec. 2303.056. PERIODIC [~~AND RISK-BASED~~] INSPECTIONS. (a) The department may enter and inspect at any time during business hours:

(1) the place of business of any person regulated under this chapter; or

(2) any place in which the department has reasonable cause to believe that a license holder is in violation of this chapter or in violation of a rule or order of the commission or executive director.

(b) At least once every two years, the department shall

inspect a vehicle storage facility that holds a license under this chapter.

~~[(c) The department shall conduct additional inspections based on a schedule of risk-based inspections using the following criteria:~~

~~(1) the type and nature of the vehicle storage facility;~~

~~(2) the inspection history of the vehicle storage facility;~~

~~(3) any history of violations involving the vehicle storage facility; and~~

~~(4) any other factor determined by the commission by rule.~~

~~(d) The vehicle storage facility shall pay a fee for each risk-based inspection performed under Subsection (c). The commission by rule shall set the amount of the fee.]~~

SECTION 50. Section 2303.102 is amended to read as follows:

Sec. 2303.102. LICENSE APPLICATION. (a) The commission by rule shall determine the types of information to be included in an application for a license under this chapter on a form prescribed by the department ~~[executive director]~~.

SECTION 51. Section 2303.103 is amended to read as follows:

Sec. 2303.103. ELIGIBILITY. The department shall approve an application submitted as provided by Section 2303.102 unless the department determines that:

(1) the applicant knowingly supplied false or incomplete information on the application;

1 (2) ~~[in the three years preceding the date of~~
2 ~~application,~~] the applicant, a partner, principal, or officer of
3 the applicant, or the general manager of the applicant, was
4 convicted of:

5 (A) a felony; ~~or~~

6 (B) a misdemeanor punishable by confinement in
7 jail or by a fine exceeding \$500; or

8 (3) the vehicle storage facility for which the license
9 is sought does not meet the standards for storage facilities
10 established by commission rules.

11 SECTION 52. The section heading to Section 2303.1511 is
12 amended to read as follows:

13 Sec. 2303.1511. VEHICLE STORAGE FACILITY'S DUTY TO REPORT
14 TO LOCAL LAW ENFORCEMENT AFTER ACCEPTING A ~~[UNAUTHORIZED]~~ VEHICLE.

15 SECTION 53. Section 2303.153 is amended to read as follows:

16 Sec. 2303.153. CONTENTS OF NOTICE. (a) A notice by mail
17 provided under Section 2303.151 must include:

18 (1) the date the vehicle was received by the facility
19 ~~[accepted for storage]~~;

20 (2) the first day for which a storage fee is assessed;

21 (3) the daily storage rate;

22 (4) the type and amount of any other charge to be paid
23 when the vehicle is claimed;

24 (5) the full name, street address, and telephone
25 number of the vehicle storage facility;

26 (6) the hours during which the owner may claim the
27 vehicle; and

(7) the facility license number preceded by "Texas Department of Licensing and Regulation Vehicle Storage Facility License Number" or "TDLR VSF Lic. No."

(b) A notice by publication provided under Section 2303.152 must include:

(1) the vehicle description;

(2) the total charges;

(3) the full name, street address, and telephone number of the facility; and

(4) the facility license number preceded by "Texas Department of Licensing and Regulation Vehicle Storage Facility Number" or "TDLR VSF Lic. No." ~~[department registration number]~~.

~~[(c) Notice by publication is not required to include any information other than that listed in Subsection (b).]~~

(c) ~~[(d)]~~ Notice by publication may include a list of more than one vehicle, watercraft, or outboard motor.

SECTION 54. Section 2303.154 is amended to read as follows:

Sec. 2303.154. SECOND NOTICE; CONSENT TO SALE. (a) If a vehicle is not claimed by a person authorized to claim the vehicle before the 10th day after the date notice is mailed or published under Section 2303.151 or 2303.152, the operator of the vehicle storage facility shall consider the vehicle to be abandoned and send notice of abandonment to a law enforcement agency under Chapter 683, Transportation Code.

(b) If a vehicle is not claimed by a person permitted to claim the vehicle or a law enforcement agency has not taken physical custody ~~[an action in response to a notice]~~ under Section

1 683.034(a)(1) [~~683.031(e)~~], Transportation Code, before the 15th
2 day after the date notice is mailed or published under Section
3 2303.151 or 2303.152, the operator of the vehicle storage facility
4 shall send a second notice to the registered owner and the primary
5 lienholder of the vehicle.

6 ~~[(a-1) If a vehicle is not claimed by a person permitted to~~
7 ~~claim the vehicle before the 10th day after the date notice is~~
8 ~~mailed or published under Section 2303.151 or 2303.152, the~~
9 ~~operator of the vehicle storage facility shall consider the vehicle~~
10 ~~to be abandoned and send notice of abandonment to a law enforcement~~
11 ~~agency under Chapter 683, Transportation Code.]~~

12 (c) [~~(b)~~] Notice under Subsection (b) [~~this section~~] must
13 include:

- 14 (1) the information listed in Section 2303.153(a);
15 (2) a statement of the right of the facility to dispose
16 of the vehicle under Section 2303.157; and
17 (3) a statement that the failure of the owner or
18 lienholder to claim the vehicle before the 30th day after the date
19 the notice is provided is:

20 (A) a waiver by that person of all right, title,
21 or interest in the vehicle; and

22 (B) a consent to the sale of the vehicle at a
23 public sale.

24 ~~[(c) Notwithstanding Subsection (b), if publication is~~
25 ~~required for notice under this section, the notice must include:~~

26 ~~(1) the information listed in Section 2303.153(b); and~~

27 ~~(2) a statement that the failure of the owner or~~

1 ~~lienholder to claim the vehicle before the date of sale is:~~

2 ~~(A) a waiver of all right, title, and interest in~~
3 ~~the vehicle, and~~

4 ~~(B) a consent to the sale of the vehicle at a~~
5 ~~public sale.]~~

6 SECTION 55. Section 2303.1545(b) is amended to read as
7 follows: (b) The facility may:

8 (1) notify the department Department of Motor Vehicles
9 ~~[department]~~ that notices under Chapter 683, Transportation Code,
10 have been provided and shall pay a fee of \$10 to the Department of
11 Motor Vehicles ~~[department]~~; or

12 SECTION 56. Section 2303.155 is amended to read as follows:

13 Sec. 2303.155. CHARGES RELATED TO STORAGE. (a) For the
14 purposes of this section, "governmental vehicle storage facility"
15 means a garage, parking lot, or other facility that is:

16 (1) owned by a governmental entity; and

17 (2) used to store or park at least 10 vehicles each
18 year.

19 (b) The operator of a vehicle storage facility or
20 governmental vehicle storage facility may charge the owner of a
21 vehicle stored or parked at the facility:

22 (1) a notification fee set in a reasonable amount for
23 providing notice under this subchapter, including notice under
24 Section 2303.154(c);

25 (2) an impoundment fee of \$20 for any action that:

26 (A) is taken by or at the direction of the owner
27 or operator of the facility; and

(B) is necessary to preserve, protect, or service a vehicle stored or parked at the facility;

(3) a daily storage fee of:

(A) ~~not less than \$5 and not more than \$20~~ for each day or part of a day the vehicle is stored at the facility if the vehicle is not longer than 25 feet; or

(B) not more than \$35 for each day or part of a day the vehicle is stored at the facility if the vehicle is longer than 25 feet;

(4) any fee that is required to be submitted to a law enforcement agency, the agency's authorized agent, or a governmental entity; and

(5) a fee in an amount set by the commission for the remediation, recovery, or capture of an environmental or biological hazard.

(c) A notification fee under Subsection (b) may not exceed \$50 per vehicle, except that if notice by publication is required by this chapter and the cost of publication exceeds 50 percent of the notification fee, the vehicle storage facility may recover the additional amount of the cost of publication from the vehicle owner or agent.

(d) For purposes of imposing a daily storage fee, a day is considered to begin at midnight and to end at the next following midnight. A daily storage fee may be charged regardless of whether the vehicle is stored for 24 hours of the day, except that a daily storage fee may not be charged for more than one day if the vehicle remains at the facility for less than 12 hours.

1 (e) The operator of a vehicle storage facility or
2 governmental vehicle storage facility may charge a daily storage
3 fee under Subsection (b):

4 (1) for not more than five days before the date notice
5 is mailed or published under this subchapter, if the vehicle is
6 registered in this state;

7 (2) for not more than five days before the date the
8 request for owner information is sent to the appropriate
9 governmental entity as required by this subchapter, if the vehicle
10 is registered in another state; and

11 (3) for each day the vehicle is in storage after the
12 date the notice is mailed or published until the vehicle is removed
13 and all accrued charges are paid.

14 (f) The operator of a vehicle storage facility or
15 governmental vehicle storage facility may not charge an additional
16 fee related to the storage of a vehicle other than a fee authorized
17 by this section or a towing fee authorized by Chapter 2308.

18 (g) This section controls over any conflicting municipal
19 ordinance or charter provision.

20 SECTION 57. Section 2303.1551(b) is amended to read as
21 follows: (b) A vehicle storage facility accepting a nonconsent
22 towed vehicle shall post a sign that complies with the font and size
23 requirements determined by the department [~~in one inch letters~~]
24 stating "Nonconsent tow fees schedules available on request." The
25 vehicle storage facility shall provide a copy of a nonconsent
26 towing fees schedule on request.

27 SECTION 58. Section 2303.157(c) is amended to read as

1 follows: (c) Notwithstanding Subsection (a), the operator of a
2 vehicle storage facility may dispose of a vehicle for which notice
3 was given under this subchapter as provided by this section if:

4 (1) the vehicle is an abandoned nuisance vehicle; and

5 (2) before the 30th day after the date the notice was
6 sent, the facility submits an application to the Department of
7 Motor Vehicles [~~department~~] for disposal of the vehicle.

8 SECTION 59. Chapter 2303 Subchapter F is amended by adding a
9 new 2303.162 to read as follows:

10 Sec. 2303.162. RELEASE OF PERSONAL PROPERTY AND COMMERCIAL
11 CARGO. (a) A vehicle storage facility shall allow any person who
12 owns or has right of possession of a motor vehicle stored at the
13 facility, or any authorized representative of the person, to remove
14 at no cost any detached personal property from the vehicle.

15 (b) A vehicle storage facility shall allow any person who
16 owns or has right of possession of a commercial motor vehicle or
17 commercial cargo stored at the facility, or any authorized
18 representative of the person, to remove at no cost any commercial
19 cargo identified or described in a bill of lading, shipping
20 manifest, shipping invoice or similar document.

21 (1) Any person removing the commercial cargo shall
22 bear all cost of its removal from the vehicle storage facility.

23 (2) The vehicle storage facility shall allow access to
24 any vehicle or equipment required to remove the commercial cargo
25 under this provision.

26 SECTION 60. Chapter 2303 Subchapter G is amended by adding a
27 new 2303.306 to read as follows:

1 Sec. 2303.306. ENFORCEMENT OF AWARD. (a) An award under
2 this chapter may be enforced by any means available for the
3 enforcement of a judgment for a debt.

4 (b) The department shall suspend a vehicle storage
5 facility's license on the license holder's failure to pay a final
6 judgment awarded to an owner or operator of a vehicle before the
7 60th day after the date of the final judgment. The department must
8 provide notice of the suspension to the license holder at least 30
9 days before the date the license is to be suspended.

10 (c) The owner or operator of the vehicle shall submit a
11 certified copy of the final judgment to the department.

12 (d) On receipt of the certified copy of the unpaid final
13 judgment, the department shall disqualify a person from obtaining
14 or renewing a license or permit on the grounds that the person or
15 vehicle storage facility has not paid a final judgment awarded to an
16 owner or operator of a vehicle.

17 (e) The department shall reinstate the license on
18 submission of evidence satisfactory to the department of payment of
19 the final judgment by the person or vehicle storage facility.

20 SECTION 61. The following provisions of the Occupations
21 Code are repealed: 2308.004, 2308.1551, 2308.1555, 2308.1556,
22 2308.2555, 2308.257, 2308.401, 2308.402, 2303.055, 2303.1016, and
23 2303.104.

24 SECTION 62. This Act takes effect immediately if it
25 receives a vote of two-thirds of all the members elected to each
26 house, as provided by Section 39, Article III, Texas Constitution.
27 If this Act does not receive the vote necessary for immediate

H.B. No. 3265

1 effect, this Act takes effect September 1, 2015.