I certify this to be a true and correct copy of the indicated document as referred or transmitted to committee.

Chief Clerk of the House

FILED FEB 27 2007

By: Joe Hill

H.B. No. 2094

A BILL TO BE ENTITLED

AN ACT

relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.

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

SECTION 1. Section 685.007(b), Transportation Code, is amended to read as follows:

(b) A request for a hearing must contain:

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

(2) the location from which the vehicle was removed;

(3) the date when the vehicle was removed;

(4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal;

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

(6) the name, address, and telephone number of the towing company that removed the vehicle;

(7) a copy of any receipt or notification that the owner or operator received from the towing company or the vehicle storage facility; [~~and~~]

(8) if the vehicle was removed from a parking facility:

(A) one or more photographs that show the location and text of any sign posted at the facility restricting

parking of vehicles; or

(B) a statement that no sign restricting parking was posted at the parking facility; and

(9) a statement explaining each reason why the owner or operator of the vehicle believes no probable cause existed to remove the vehicle.

SECTION 2. Sections 685.009(a), (b), and (e), Transportation Code, are amended to read as follows:

(a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing.

(b) The court shall notify the person who requested the hearing, [~~and~~] the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure [~~by registered or certified mail~~]. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.

(e) The court may award:

(1) court costs to the prevailing party;

(2) the reasonable cost of photographs submitted under Section 685.007(b)(8) to a vehicle owner or operator who is the prevailing party; [~~and~~]

(3) an amount equal to the amount that the towing charge exceeded fees regulated by a political subdivision or

authorized by this code or by Chapter 2303, Occupations Code; and

(4) reimbursement of fees paid for vehicle towing and storage.

SECTION 3. Chapter 685, Transportation Code, is amended by adding Section 685.011 to read as follows:

Sec. 685.011. ENFORCEMENT OF AWARD. An award under this chapter may be enforced by any means available for the enforcement of judgment for debts.

SECTION 4. The changes in law made by this Act apply only to a motor vehicle removed and stored on or after the effective date of this Act. The removal and storage of a vehicle before the effective date of this Act is governed by the law in effect on the date the vehicle was removed and stored, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2007.

HOUSE COMMITTEE REPORT

07 MAR 21 PM 3:46
HOUSE OF REPRESENTATIVES

1st Printing

By: Hill H.B. No. 2094

A BILL TO BE ENTITLED

AN ACT

relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.

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

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

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(3) the date when the vehicle was removed;

(4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal;

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

(6) the name, address, and telephone number of the towing company that removed the vehicle;

(7) a copy of any receipt or notification that the owner or operator received from the towing company or the vehicle storage facility; [~~and~~]

(8) if the vehicle was removed from a parking facility:

(A) one or more photographs that show the location and text of any sign posted at the facility restricting

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(B) a statement that no sign restricting parking was posted at the parking facility; and

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SECTION 2. Sections 685.009(a), (b), and (e), Transportation Code, are amended to read as follows:

(a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing.

(b) The court shall notify the person who requested the hearing, [~~and~~] the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure [~~by registered or certified mail~~]. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.

(e) The court may award:

(1) court costs to the prevailing party;

(2) the reasonable cost of photographs submitted under Section 685.007(b)(8) to a vehicle owner or operator who is the prevailing party; [~~and~~]

(3) an amount equal to the amount that the towing charge exceeded fees regulated by a political subdivision or

authorized by this code or by Chapter 2303, Occupations Code; and

(4) reimbursement of fees paid for vehicle towing and storage.

SECTION 3. Chapter 685, Transportation Code, is amended by adding Section 685.011 to read as follows:

Sec. 685.011. ENFORCEMENT OF AWARD. An award under this chapter may be enforced by any means available for the enforcement of judgment for debts.

SECTION 4. The changes in law made by this Act apply only to a motor vehicle removed and stored on or after the effective date of this Act. The removal and storage of a vehicle before the effective date of this Act is governed by the law in effect on the date the vehicle was removed and stored, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2007.

COMMITTEE REPORT

The Honorable Tom Craddick
Speaker of the House of Representatives

3-20-07
(date)

Sir:

We, your **COMMITTEE ON TRANSPORTATION**

to whom was referred HB 2094 have had the same under consideration and beg to report back with the recommendation that it

(✓) do pass, without amendment.
( ) do pass, with amendment(s).
( ) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

(✓) yes ( ) no A fiscal note was requested.

( ) yes (✓) no A criminal justice policy impact statement was requested.

( ) yes (✓) no An equalized educational funding impact statement was requested.

( ) yes (✓) no An actuarial analysis was requested.

( ) yes (✓) no A water development policy impact statement was requested.

( ) yes (✓) no A tax equity note was requested.

(✓) The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor _____

Joint Sponsors: _____ / _____ / _____ / _____

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Krusee, Chair	✓			
Phillips, Vice-chair				✓
Harper-Brown, CBO	✓			
Deshotel				✓
Haggerty				✓
Harless	✓			
Hill	✓			
Macias	✓			
Murphy	✓			

Total
6 aye
0 nay
0 present, not voting
3 absent

Mike Krusee
CHAIR

BILL ANALYSIS

H.B. 2094
By: Hill
Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, owners and operators of vehicles that have been towed and placed in storage have the right to a hearing before a Justice of the Peace. In order to bring a case before the court, the owner or operator must provide certain information to the court but they are not required to explain the reason for contesting the towing and storage. Towing and storage company owners believe that many cases could be settled outside the court system if they simply knew the reason for the contest prior to the hearing.

Hearings relating to the rights of owners and operators of vehicles towed and placed in storage are required to be held within 10 days of a request for hearing. Notification for hearings relating to the rights of owners and operators of vehicles towed and placed in storage is currently the responsibility of the court and is sent by certified mail. Ten days is often not sufficient time to schedule a hearing on a court's docket and to receive confirmation of receipt of certified mail. Too often, parties refuse to claim certified mail. Further, citizens who have had their vehicles removed without probable cause have no specified method for collecting their award.

H.B. 2094 would require vehicle owners and operators contesting towing and storage to provide to the court in advance of a hearing the reason for the contest. This bill would also allow a notice of hearing to be delivered in the manner specified for notices under Rule 21a of the Texas Rules of Civil Procedure, would grant the court the authority to make an award of the costs of the removal and the reasonable costs of placement of a vehicle removed without probable cause and would provide that an award may be enforced by any method currently available for collecting a civil judgment for a debt.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 685.007 of the Texas Transportation Code by requiring the owner or operator of a towed vehicle to provide an explanation of why no probable cause existed for the towing of a vehicle.

SECTION 2. Amends Section 685.009 of the Texas Transportation Code as follows: Subsection (a) is amended to provide that hearings relating to the rights of owners and operators of vehicles removed and placed in storage shall be within 14 days of the date of request for hearing. Subsection (b) is amended to provide that notification for hearings may be made by any method of service specified for notices under Rule 21a of the Texas Rules of Civil Procedure, and that a storage facility to which a vehicle was removed must also be given notice of the hearing. Subsection (e) is amended to allow the court to award the costs of the removal and the reasonable costs of placement of the vehicle in the event that no probable cause was found for the removal of the vehicle.

SECTION 3. Amends Chapter 685 of the Texas Transportation Code by adding a new section to provide that an award may be enforced by the prevailing party by any means available for the enforcement of a civil judgment for a debt.

SECTION 4. Provides that changes in law made by this Act are prospective.

SECTION 5. Effective date: September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

SUMMARY OF COMMITTEE ACTION

HB 2094

March 20, 2007 8:00 AM

Considered in public hearing

Testimony taken in committee (See attached witness list.)

Recommended to be sent to Local & Consent

Reported favorably without amendment(s)

WITNESS LIST

HB 2094
HOUSE COMMITTEE REPORT
Transportation Committee

March 20, 2007 - 8:00 AM

For: Vara, Richard C. (Harris County - Justice of the Peace)

Registering, but not testifying:

For: Rash, Jeanette (Self and Texas Towing & Storage Assoc.)

+ 4

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 15, 2007

TO: Honorable Mike Krusee, Chair, House Committee on Transportation

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2094** by Hill (Relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Transportation Code to require a court to notify the vehicle storage facility in which a vehicle was placed of the date, time, and place of a hearing regarding the removal of the vehicle. The notification would be in addition to the notification required under current statute to notify the person who requested the hearing and the person or law enforcement agency that authorized removal of the vehicle.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:
LBB Staff: JOB, KJG, DB

HOUSE ENGROSSMENT

By: Hill H.B. No. 2094

A BILL TO BE ENTITLED

AN ACT

relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.

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

SECTION 1. Section 685.007(b), Transportation Code, is amended to read as follows:

(b) A request for a hearing must contain:

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

(2) the location from which the vehicle was removed;

(3) the date when the vehicle was removed;

(4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal;

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

(6) the name, address, and telephone number of the towing company that removed the vehicle;

(7) a copy of any receipt or notification that the owner or operator received from the towing company or the vehicle storage facility; [~~and~~]

(8) if the vehicle was removed from a parking facility:

(A) one or more photographs that show the location and text of any sign posted at the facility restricting

parking of vehicles; or

(B) a statement that no sign restricting parking was posted at the parking facility; and

(9) a statement explaining each reason why the owner or operator of the vehicle believes no probable cause existed to remove the vehicle.

SECTION 2. Sections 685.009(a), (b), and (e), Transportation Code, are amended to read as follows:

(a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing.

(b) The court shall notify the person who requested the hearing, [~~and~~] the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure [~~by registered or certified mail~~]. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.

(e) The court may award:

(1) court costs to the prevailing party;

(2) the reasonable cost of photographs submitted under Section 685.007(b)(8) to a vehicle owner or operator who is the prevailing party; [~~and~~]

(3) an amount equal to the amount that the towing charge exceeded fees regulated by a political subdivision or

authorized by this code or by Chapter 2303, Occupations Code; and

(4) reimbursement of fees paid for vehicle towing and storage.

SECTION 3. Chapter 685, Transportation Code, is amended by adding Section 685.011 to read as follows:

Sec. 685.011. ENFORCEMENT OF AWARD. An award under this chapter may be enforced by any means available for the enforcement of judgment for debts.

SECTION 4. The changes in law made by this Act apply only to a motor vehicle removed and stored on or after the effective date of this Act. The removal and storage of a vehicle before the effective date of this Act is governed by the law in effect on the date the vehicle was removed and stored, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2007.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 15, 2007

TO: Honorable Mike Krusee, Chair, House Committee on Transportation

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2094** by Hill (Relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Transportation Code to require a court to notify the vehicle storage facility in which a vehicle was placed of the date, time, and place of a hearing regarding the removal of the vehicle. The notification would be in addition to the notification required under current statute to notify the person who requested the hearing and the person or law enforcement agency that authorized removal of the vehicle.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:
LBB Staff: JOB, KJG, DB

By: Hill (Senate Sponsor - Carona) H.B. No. 2094

(In the Senate - Received from the House April 16, 2007; April 17, 2007, read first time and referred to Committee on Transportation and Homeland Security; May 19, 2007, reported adversely, with favorable Committee Substitute by the following vote: Yeas 6, Nays 0; May 19, 2007, sent to printer.)

COMMITTEE SUBSTITUTE FOR H.B. No. 2094 By: Carona

A BILL TO BE ENTITLED
AN ACT

relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.

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

SECTION 1. Sections 685.009(a), (b), and (e), Transportation Code, are amended to read as follows:

(a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing.

(b) The court shall notify the person who requested the hearing, [~~and~~] the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure [~~by registered or certified mail~~]. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.

(e) The court may award:

(1) court costs to the prevailing party;

(2) the reasonable cost of photographs submitted under Section 685.007(b)(8) to a vehicle owner or operator who is the prevailing party; [~~and~~]

(3) an amount equal to the amount that the towing charge exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303, Occupations Code; and

(4) reimbursement of fees paid for vehicle towing and storage.

SECTION 2. Chapter 685, Transportation Code, is amended by adding Section 685.011 to read as follows:

Sec. 685.011. ENFORCEMENT OF AWARD. An award under this chapter may be enforced by any means available for the enforcement of judgment for debts.

SECTION 3. The changes in law made by this Act apply only to a motor vehicle removed and stored on or after the effective date of this Act. The removal and storage of a vehicle before the effective date of this Act is governed by the law in effect on the date the vehicle was removed and stored, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2007.

* * * * *

FAVORABLY AS SUBSTITUTED
SENATE COMMITTEE REPORT ON

SB SCR SJR SR (HB) HCR HJR 2094

By Hill/Carona
(Author/Senate Sponsor)

5-19-07
(date)

We, your Committee on TRANSPORTATION AND HOMELAND SECURITY, to which was referred the attached measure, have on 5-16-2007 (date of hearing), had the same under consideration and I am instructed to report it back with the recommendation (s) that it:

(✓) do pass as substituted, and be printed
( ) the caption remained the same as original measure
( ) the caption changed with adoption of the substitute

( ) do pass as substituted, and be ordered not printed

(✓) and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. (✓) yes ( ) no

A revised fiscal note was requested. (✓) yes ( ) no

Considered by subcommittee. ( ) yes (✓) no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator John Carona, Chairman	✓			
Senator Kirk Watson, Vice-Chairman	✓			
Senator Kim Brimer	✓			
Senator Rodney Ellis	✓			
Senator Robert Nichols			✓	
Senator Florence Shapiro			✓	
Senator Eliot Shapleigh	✓			
Senator Jeff Wentworth	✓			
Senator Tommy Williams			✓	
TOTAL VOTES	6	0	3	0

COMMITTEE ACTION

(S260) Considered in public hearing
(S270) Testimony taken

John W. Wolf
COMMITTEE CLERK

John Carona
CHAIR

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute
Retain one copy of this form for Committee files

WITNESS LIST

HB 2094

Senate Committee Report

Transportation & Homeland Security

May 14, 2007 - 9:00 AM

FOR:

Johnson, Pat Founder (Texas Towing Compliance), Austin, TX

Rash, Jeanette Legislative Chair (Texas Towing & Storage Association), Houston, TX

Registering, but not testifying:

For:

Cernosek, Larry Chairman (Texas Towing & Storage Association), Austin, TX

BILL ANALYSIS

Senate Research Center
80R21265 E

C.S.H.B. 2094
By: Hill (Carona)
Transportation & Homeland Security
5/18/2007
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Hearings relating to the rights of owners and operators of vehicles towed and placed in storage are required to be held within 10 days of a request for hearing. Notification for hearings relating to such rights is currently the responsibility of the court and is sent to the person by certified mail. Ten days is often not a sufficient amount of time to schedule a hearing on a court's docket and receive confirmation of receipt of certified mail. Furthermore, parties often refuse to claim certified mail. Finally, persons who have had their vehicles removed without probable cause have no specified method for collecting their award.

C.S.H.B. 2094 requires vehicle owners and operators contesting towing and storage to provide to the court in advance of a hearing the reason of the contest. This bill requires such a notice of hearing to be delivered in the manner specified for notices under Rule 21a (Methods of Service) of the Texas Rules of Civil Procedure. This bill authorizes the court to make an award of the costs of the removal and the reasonable costs of placement of a vehicle removed without probable cause. Finally, this bill authorizes an award to be enforced by any method currently available for collecting a civil judgment for a debt.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 685.009(a), (b), and (e), Transportation Code, as follows:

(a) Requires a hearing under this chapter (Rights of Owners and Operators of Stored Vehicles) to be held before the 14th, rather than 10th, working day after the date the court receives the request for the hearing.

(b) Requires the court to notify the person who requested the hearing and the person or law enforcement agency that authorized the removal of the vehicle of the date, time, and place of the hearing in a manner provided by Rule 21a (Methods of Service), Texas Rules of Civil Procedure, rather than by registered or certified mail. Requires the court to notify the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure.

(e) Authorizes the court to award reimbursement of fees paid for vehicle towing and storage.

SECTION 2. Amends Chapter 685, Transportation Code, by adding Section 685.011, as follows:

Sec. 685.011. ENFORCEMENT OF AWARD. Authorizes an award under this chapter to be enforced by any means available for the enforcement or judgment of debts.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2007.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 17, 2007

TO: Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2094** by Hill (Relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Transportation Code to require a court to notify the vehicle storage facility in which a vehicle was placed of the date, time, and place of a hearing regarding the removal of the vehicle. The notification would be in addition to the notification required under current statute to notify the person who requested the hearing and the person or law enforcement agency that authorized removal of the vehicle.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:
LBB Staff: JOB, KJG, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 11, 2007

TO: Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2094** by Hill (Relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Transportation Code to require a court to notify the vehicle storage facility in which a vehicle was placed of the date, time, and place of a hearing regarding the removal of the vehicle. The notification would be in addition to the notification required under current statute to notify the person who requested the hearing and the person or law enforcement agency that authorized removal of the vehicle.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:
LBB Staff: JOB, KJG, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 15, 2007

TO: Honorable Mike Krusee, Chair, House Committee on Transportation

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2094** by Hill (Relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Transportation Code to require a court to notify the vehicle storage facility in which a vehicle was placed of the date, time, and place of a hearing regarding the removal of the vehicle. The notification would be in addition to the notification required under current statute to notify the person who requested the hearing and the person or law enforcement agency that authorized removal of the vehicle.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:
LBB Staff: JOB, KJG, DB

REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

SENATOR JOHN CARONA, CHAIRMAN
SENATE COMMITTEE ON TRANSPORTATION AND HOMELAND SECURITY

Notice is hereby given that HB 2094 (Bill No.), by Hill / Carona (Author/Sponsor),

was heard by the Committee on Transportation and Homeland Security on 5-16-2007, 2007,

and reported out with the recommendation that it be placed on the Local and Uncontested Calendar.

Joe W. Will
(Clerk of the reporting committee)

IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A **COMMITTEE PRINTED VERSION** OF THE BILL OR RESOLUTION AND SHOULD BE DELIVERED TO THE ADMINISTRATION COMMITTEE OFFICE, E1.714. DEADLINES FOR SUBMITTING BILLS AND RESOLUTIONS WILL BE ANNOUNCED ON A REGULAR BASIS.

Paper clip the original to the bill; retain pink copy for committee files; deliver yellow copy to bill author/sponsor.

ADOPTED

MAY 22 2007

Secretary of the Senate

By: Hill / Carona H.B. No. 2094

Substitute the following for H.B. No. 2094:

By: Carona C.S.H.B. No. 2094

A BILL TO BE ENTITLED

AN ACT

relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.

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

SECTION 1. Sections 685.009(a), (b), and (e), Transportation Code, are amended to read as follows:

(a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing.

(b) The court shall notify the person who requested the hearing, [~~and~~] the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure [~~by registered or certified mail~~]. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.

(e) The court may award:

(1) court costs to the prevailing party;

(2) the reasonable cost of photographs submitted under Section 685.007(b)(8) to a vehicle owner or operator who is the prevailing party; [~~and~~]

(3) an amount equal to the amount that the towing

charge exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303, Occupations Code; and

(4) reimbursement of fees paid for vehicle towing and storage.

SECTION 2. Chapter 685, Transportation Code, is amended by adding Section 685.011 to read as follows:

Sec. 685.011. ENFORCEMENT OF AWARD. An award under this chapter may be enforced by any means available for the enforcement of judgment for debts.

SECTION 3. The changes in law made by this Act apply only to a motor vehicle removed and stored on or after the effective date of this Act. The removal and storage of a vehicle before the effective date of this Act is governed by the law in effect on the date the vehicle was removed and stored, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2007.

ADOPTED

MAY 22 2007

Secretary of the Senate

FLOOR AMENDMENT NO. 1 BY: Carona

Amend H.B. No. 2094 by striking all below the enacting clause and substituting the following:

ARTICLE 1. LICENSING AND REGULATION OF TOWING AND VEHICLE STORAGE

SECTION 1.01. Sections 2303.002(2), (3), and (4), Occupations Code, are amended to read as follows:

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

(3) "Department" means the Texas Department of Licensing and Regulation [~~Transportation~~].

(4) "Executive director [~~Director~~]" means the executive director of the department [~~or a person designated by the executive director who is not below the rank of division or special office director~~].

SECTION 1.02. Section 2303.051, Occupations Code, is amended to read as follows:

Sec. 2303.051. RULEMAKING: LICENSE REQUIREMENTS[~~+ SANCTIONS~~]. The commission shall adopt rules that:

(1) establish the requirements for a person to be licensed to operate a vehicle storage facility to ensure that the facility maintains adequate standards for the care of stored vehicles; [~~and~~]

(2) relate to the administrative sanctions that may be imposed on a person licensed under this chapter;

(3) govern the administration of this chapter.

SECTION 1.03. Subchapter B, Chapter 2303, Occupations Code, is amended by adding Sections 2303.055, 2303.056, 2303.057, and 2303.058 to read as follows:

Sec. 2303.055. EXAMINATION OF CRIMINAL CONVICTION. The department may conduct an examination of any criminal conviction of

an applicant, including by obtaining any criminal history record information permitted by law.

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.

Sec. 2303.057. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter.

Sec. 2303.058. ADVISORY BOARD. The Towing and Storage

Advisory Board under Chapter 2308 shall advise the commission in adopting vehicle storage rules under this chapter.

SECTION 1.04. The heading to Section 2303.101, Occupations Code, is amended to read as follows:

Sec. 2303.101. FACILITY LICENSE REQUIRED.

SECTION 1.05. Subchapter C, Chapter 2303, Occupations Code, is amended by adding Section 2303.1015 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.

(b) The commission shall adopt rules governing the application for and issuance of a license under this section.

SECTION 1.06. Sections 2303.102(a) and (b), Occupations Code, are amended to read as follows:

(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 executive director.

(b) The rules adopted [~~by the commission~~] under this section must require an [~~the~~] application for a facility license [~~to be made under oath and~~] to list:

(1) the name and address of each partner, if the applicant is a partnership; and

(2) the name and address of the president, secretary, and treasurer of the corporation, if the applicant is a corporation [~~; and~~

[~~(3) each conviction of a felony, or of a misdemeanor punishable by confinement in jail or by a fine exceeding $200, that was obtained against the applicant or a partner or officer of the applicant in the three years preceding the date of application~~].

SECTION 1.07. Section 2303.151(c), Occupations Code, is amended to read as follows:

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(c) It is a defense to an action initiated by the department for a violation of this section that the operator of the facility unsuccessfully attempted in writing or electronically to obtain information from the governmental entity with which the vehicle is registered.

SECTION 1.08. Section 2303.155(b), Occupations Code, is amended to read as follows:

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

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

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

(A) is taken by or at the direction of the owner 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) $35 for each day or part of a day the vehicle is stored at the facility if the vehicle is longer than 25 feet; [~~and~~]

(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.

SECTION 1.09. Subchapter D, Chapter 2303, Occupations Code, is amended by adding Section 2303.160 to read as follows:

Sec. 2303.160. DRUG TESTING OF EMPLOYEES. (a) A license holder shall establish a drug testing policy for employees of the vehicle storage facility operated by the license holder. A license holder that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted by the commission.

(b) The commission by rule shall adopt a model drug testing policy for use by license holders. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. The model drug testing policy must:

(1) require at least one scheduled drug test each year for each employee of a vehicle storage facility who has direct contact with the public; and

(2) authorize random, unannounced drug testing for employees described by Subdivision (1).

SECTION 1.10. Section 2303.302, Occupations Code, is amended to read as follows:

Sec. 2303.302. CRIMINAL PENALTIES. (a) A person commits an offense if the person:

(1) violates the licensing requirements of [~~operates a vehicle storage facility for which a license has not been issued under~~] this chapter; or

(2) employs an individual who does not hold an appropriate license required by [~~violates a rule adopted by the commission under~~] this chapter.

(b) An offense under this section is a Class C misdemeanor [~~punishable by a fine of not less than $200 and not more than $500~~].

[~~(c) A person commits a separate offense for each day the person violates this section.~~]

SECTION 1.11. Subchapter G, Chapter 2303, Occupations Code, is amended by adding Sections 2303.304 and 2303.305 to read as follows:

Sec. 2303.304. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates:

(1) this chapter or a rule adopted under this chapter; or

(2) a rule or order of the executive director or commission.

(b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 2303.305. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

SECTION 1.12. Subtitle A, Title 14, Occupations Code, is amended by adding Chapter 2308 to read as follows:

CHAPTER 2308. VEHICLE TOWING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2308.001. SHORT TITLE. This chapter may be cited as the Texas Towing Act.

Sec. 2308.002. DEFINITIONS. In this chapter:

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

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

(3) "Consent tow" means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.

(4) "Department" means the Texas Department of Licensing and Regulation.

(5) "Driver's license" has the meaning assigned by Section 521.001, Transportation Code.

(6) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow.

(7) "Parking facility" means public or private property used, wholly or partly, for restricted or paid vehicle parking. The term includes:

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

(B) a commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, home, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including:

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

(ii) the area between the facility's

property line abutting a county or municipal public roadway and the center line of the roadway's drainage way or the curb of the roadway, whichever is farther from the facility's property line.

(8) "Parking facility owner" means:

(A) an owner or operator of a parking facility, including a lessee, employee, or agent of an owner or operator;

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

(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.

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

(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.

(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.

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

(13) "Unauthorized vehicle" means a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner.

(14) "Vehicle" means a device in, on, or by which a person or property may be transported on a public roadway. The term

includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer but does not include a device moved by human power or used exclusively on a stationary rail or track.

(15) "Vehicle owner" means a person:

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

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

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

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

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

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

Sec. 2308.003. STUDY OF NONCONSENT TOWING FEES. (a) The department shall study the fees charged by license and permit holders for nonconsent tows, compliance of license and permit holders with local regulations governing towing fees, and consumer complaints related to fees for nonconsent tows. Not later than January 1, 2009, the department shall report to the legislature the findings of the study, including any recommendations for state regulation of towing fees.

(b) This section expires September 1, 2009.

[Sections 2308.004-2308.050 reserved for expansion]

SUBCHAPTER B. ADVISORY BOARD

Sec. 2308.051. TOWING AND STORAGE ADVISORY BOARD. (a) The advisory board consists of the following members appointed by the presiding officer of the commission with the approval of the commission:

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

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

(3) one owner of a vehicle storage facility located in a county with a population of less than one million;

(4) one owner of a vehicle storage facility located in a county with a population of one million or more;

(5) one parking facility owner;

(6) one law enforcement officer from a county with a population of less than one million;

(7) one law enforcement officer from a county with a population of one million or more; and

(8) one representative of property and casualty insurers who write automobile insurance in this state.

(b) The advisory board must include representation for each classification of towing.

(c) An appointment to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 2308.052. TERMS; VACANCIES. (a) Advisory board members serve terms of six years, with the terms of two or three members, as appropriate, expiring on February 1 of each odd-numbered year.

(b) A member may not serve more than two full consecutive terms.

(c) If a vacancy occurs during a term, the presiding officer of the commission shall appoint a replacement who meets the qualifications of the vacated position to serve for the remainder of the term.

Sec. 2308.053. PRESIDING OFFICER. The presiding officer of the commission shall appoint one of the advisory board members to serve as presiding officer of the advisory board for a term of one year. The presiding officer of the advisory board may vote on any matter before the advisory board.

Sec. 2308.054. COMPENSATION; REIMBURSEMENT OF EXPENSES. Advisory board members may not receive compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the advisory board, subject to the General Appropriations Act.

Sec. 2308.055. MEETINGS. The advisory board shall meet twice annually and may meet at other times at the call of the presiding officer of the commission or the executive director.

Sec. 2308.056. GENERAL POWERS AND DUTIES. The executive director or commission, as appropriate, may take action as necessary to administer and enforce this chapter.

Sec. 2308.057. RULES. (a) The commission shall adopt rules for permitting tow trucks and licensing towing operators and towing companies.

(b) The commission by rule shall adopt standards of conduct for license and permit holders under this chapter.

Sec. 2308.058. FEES. The commission shall establish and collect reasonable and necessary fees in amounts sufficient to cover the costs of administering this chapter.

Sec. 2308.059. 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 or permit holder is in violation of this chapter or in violation of a rule or order of the commission or executive director.

(b) 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 towing company or operator;

(2) the inspection history;

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

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

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

(d) In conducting an inspection under this section, the department may inspect a vehicle, a facility, business records, or any other place or thing reasonably required to enforce this chapter or a rule or order adopted under this chapter.

Sec. 2308.060. POWERS AND DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration and enforcement of this chapter, including examination content, licensing standards, and continuing education requirements.

Sec. 2308.061. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter.

[Sections 2308.062-2308.100 reserved for expansion]

SUBCHAPTER C. TOW TRUCK PERMIT REQUIREMENTS

Sec. 2308.101. PERMIT REQUIRED. A tow truck may not be used for consent towing or nonconsent towing on a public roadway in this state unless an appropriate permit has been issued for the tow truck under this subchapter. Each tow truck requires a separate permit.

Sec. 2308.102. APPLICATION REQUIREMENTS. (a) An applicant for a permit under this subchapter must submit to the department:

(1) a completed application on a form prescribed by the executive director;

(2) evidence of insurance or financial responsibility required under this subchapter;

(3) the required fees; and

(4) any other information required by the executive director.

(b) The department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.

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(e), Transportation Code.

Sec. 2308.104. REQUIREMENTS FOR PRIVATE PROPERTY TOWING PERMIT. (a) A private property towing permit is required for a tow truck used to perform a nonconsent tow authorized by a parking facility owner under this chapter.

(b) To be eligible for a private property 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 $300,000 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 consent towing but not for incident management towing.

Sec. 2308.105. REQUIREMENTS FOR CONSENT TOWING PERMIT. (a) A consent towing permit is required for a tow truck used to perform a consent tow authorized by the vehicle owner.

(b) To be eligible for a consent 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; and

(2) the applicant has at least $300,000 of liability insurance for the tow truck.

(c) A tow truck permitted under this section may not be used for nonconsent towing, including incident management towing and private property towing.

Sec. 2308.106. DEPARTMENT APPROVAL; ISSUANCE OF PERMIT. (a) The department shall issue a permit under this subchapter to an applicant who meets the requirements for a permit. The department may deny an application if the applicant has had a permit revoked under this chapter.

(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.

Sec. 2308.107. PERMIT RENEWAL. (a) A permit issued under this chapter is valid for one year. The department may adopt a system under which permits expire at different times during the year.

(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 address according to the records of the department.

(c) A permit holder may renew a permit under this chapter by:

(1) paying a fee for each tow truck; and

(2) providing to the department evidence of continuing insurance or financial responsibility in an amount required by this chapter.

Sec. 2308.108. CAB CARDS. (a) The department shall issue a cab card for each tow truck issued a permit. The cab card must:

(1) show the permit number of the certificate issued under Section 2308.106(b);

(2) show the type of permit issued;

(3) show the vehicle unit number;

(4) show the vehicle identification number; and

(5) contain a statement that the vehicle has been issued a permit under this subchapter.

(b) The department shall issue a cab card when the department issues or renews a permit under this subchapter.

(c) A permit holder must keep the cab card in the cab of each permitted tow truck.

(d) The department may order a permit holder to surrender a cab card if the permit is suspended or revoked under this chapter.

(e) If the department determines that the cab card system described by Subsections (a) through (c) is not an efficient means of enforcing this subchapter, the executive director by rule may adopt an alternative method that is accessible by law enforcement personnel in the field and provides for the enforcement of the permit requirements of this subchapter.

(f) A cab card or a permit issued under the alternative method described in Subsection (e) must be valid for the same duration as a certificate issued under Section 2308.106.

Sec. 2308.109. DISPLAY OF INFORMATION ON TOW TRUCK. (a) A permit holder shall display on each permitted tow truck:

(1) the permit holder's name;

(2) the permit holder's telephone number;

(3) the city and state where the permit holder is located; and

(4) the permit number for the tow truck.

(b) The information required to be displayed must be:

(1) printed in letters and numbers that are at least two inches high and in a color that contrasts with the color of the background surface; and

(2) permanently affixed in conspicuous places on both sides of the tow truck.

Sec. 2308.110. FINANCIAL RESPONSIBILITY. (a) A permit holder shall maintain liability insurance for each tow truck according to the requirements under this subchapter.

(b) Unless state law permits a tow truck to be self-insured, any insurance required for a tow truck must be obtained from an insurer authorized to do business in this state.

(c) An applicant or permit holder must file with the department evidence of insurance as required by this subchapter.

(d) A permit holder shall keep evidence of insurance in a form approved by the department in the cab of each permitted tow truck.

[Sections 2308.111-2308.150 reserved for expansion]

SUBCHAPTER D. LICENSE REQUIREMENTS

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.

Sec. 2308.152. GENERAL LICENSE APPLICATION REQUIREMENTS. An applicant for a license under this subchapter must submit to the department:

(1) a completed application on a form prescribed by the executive director;

(2) the required fees; and

(3) any other information required by commission rule.

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) be a licensed Texas driver; and

(2) be certified by the National Drivers Certification

Program of the Towing and Recovery Association of America or another certification program approved by the department.

Sec. 2308.154. PRIVATE PROPERTY TOWING OPERATOR'S LICENSE. (a) A private property towing operator's license is required to operate a tow truck permitted under Section 2308.104.

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

(1) be a licensed Texas driver; and

(2) be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by the department.

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

(b) An applicant for a consent towing operator's license must be a licensed Texas driver.

Sec. 2308.156. NONTRANSFERABILITY OF LICENSE. A license issued by the executive director is valid throughout this state and is not transferable.

Sec. 2308.157. CONTINUING EDUCATION. (a) The commission by rule shall recognize, prepare, or administer continuing education programs for license holders. Except as provided by Subsection (c), each license holder must complete a continuing education program before the license holder may renew the license holder's license.

(b) A person recognized by the commission to offer a continuing education program must:

(1) register with the department; and

(2) comply with rules adopted by the commission relating to continuing education.

(c) To renew an incident management towing operator's

license the first time, a license holder must complete a professional development course relating to towing that is licensed or certified by the National Safety Council or another course approved and administered by the department under this section.

Sec. 2308.158. DRUG TESTING OF TOWING OPERATORS. (a) A towing company shall establish a drug testing policy for towing operators. A towing company that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted by the commission.

(b) The commission by rule shall adopt a model drug testing policy for use by a towing company. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. The model drug testing policy must:

(1) require at least one scheduled drug test each year for each towing operator; and

(2) authorize random, unannounced drug testing for towing operators.

Sec. 2308.159. LICENSE RENEWAL. (a) A license issued under this subchapter is valid for one year. The department may adopt a system under which licenses expire at different times during the year.

(b) The department shall notify the license holder at least 30 days before the date a license expires. The notice must be in writing and sent to the license holder's last known address according to the records of the department.

(c) A license holder may renew a license issued under this chapter by:

(1) paying a renewal fee; and

(2) completing continuing education as required by Section 2308.157.

ARTICLE 2. CONSOLIDATION OF LAWS RELATED TO TOWING

SECTION 2.01. Sections 643.201 and 643.203 through 643.208, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter E, Chapter 2308, Occupations Code, renumbered as Sections 2308.201 through 2308.207, Occupations Code, and amended to read as follows:

SUBCHAPTER E. LOCAL REGULATION OF TOWING

Sec. 2308.201 [~~643.201~~]. TOW TRUCK REGULATION BY POLITICAL SUBDIVISIONS. (a) A [~~In addition to the registration requirements of Subchapter B, a~~] political subdivision of this state may regulate the operation of a tow truck to the extent allowed by federal law, except that a political subdivision may not issue a more restrictive regulation for the use of lighting equipment on a tow truck than is imposed by Title 7, Transportation Code [~~this title~~].

(b) A political subdivision may not require the registration of a tow truck that performs consent tows in the political subdivision unless the owner of the tow truck has a place of business in the territory of the political subdivision.

(c) A political subdivision may require the registration of a tow truck that performs a nonconsent tow in the political subdivision, regardless of whether the owner of the tow truck has a place of business in the territory of the political subdivision.

(d) A political subdivision may not require a person who holds a driver's license or commercial driver's license to obtain a license or permit for operating a tow truck unless the person performs nonconsent tows in the territory of the political subdivision. A fee charged for a license or permit may not exceed

$15.

[~~(c) In this section:~~

[~~(1) "Commercial driver's license" has the meaning assigned by Section 522.003.~~

[~~(2) "Consent tow" means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.~~

[~~(3) "Driver's license" has the meaning assigned by Section 521.001.~~

[~~(4) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow.~~]

Sec. 2308.202 [~~643.203~~]. REGULATION BY POLITICAL SUBDIVISIONS OF FEES FOR NONCONSENT TOWS. The governing body of a political subdivision shall [~~may~~] regulate the fees that may be charged or collected in connection with a nonconsent tow originating in the territory of the political subdivision.

Sec. 2308.203 [~~643.204~~]. TOWING FEE STUDIES. (a) The governing body of a political subdivision that regulates nonconsent tow fees shall establish procedures by which a towing company may request that a towing fee study be performed.

(b) The governing body of the political subdivision shall establish or amend the allowable fees for nonconsent tows at amounts that represent the fair value of the services of a towing company and are reasonably related to any financial or accounting information provided to the governing body.

Sec. 2308.204 [~~643.205~~]. FEES FOR NONCONSENT TOWS IN OTHER AREAS. (a) In an area in which no political subdivision regulates the fees that may be charged or collected for a nonconsent tow from

private property, a towing company may charge and collect a fee for the tow of a motor vehicle from private property in an amount not to exceed an amount equal to 150 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.

(b) A towing company may charge and collect a fee for the tow of a vehicle, with a gross vehicle weight rating in excess of 26,000 pounds, from private property in an amount not to exceed an amount equal to 125 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.

Sec. 2308.205 [~~643.206~~]. STORAGE OF TOWED VEHICLES. (a) A towing company that makes a nonconsent tow shall tow the vehicle to a vehicle storage facility that is operated by a person who holds a license to operate the facility under Chapter 2303, [~~Occupations Code,~~] unless the towing company agrees to take the vehicle to a location designated by the vehicle's owner.

(b) A storage or notification fee imposed in connection with a motor vehicle towed to a vehicle storage facility is governed by Chapter 2303[~~, Occupations Code~~].

(c) Except as provided by this chapter, Article 18.23, Code of Criminal Procedure, or Chapter 2303[~~, Occupations Code~~], a fee may not be charged or collected without the prior written consent of the vehicle owner or operator.

Sec. 2308.206 [~~643.207~~]. REQUIRED FILING. (a) Before January 31 of each year, a towing company shall file with the department a schedule showing each towing fee that the towing company charges or collects in connection with a nonconsent tow.

(b) If a political subdivision begins regulating nonconsent

tow fees, the fees shall be reported to the department by the towing company before the 30th day after the regulation goes into effect.

(c) Any changes in nonconsent tow fees regulated by a political subdivision shall be reported to the department by the towing company before the 30th day after the effective date of the change.

(d) The department shall make towing fee schedules available on the department's Internet website. The department shall make no determination as to the reasonableness of a towing fee schedule.

(e) A license or permit holder may not charge a fee for a nonconsent tow that is greater than the fee listed in the schedule most recently submitted to the department under this section.

Sec. 2308.207 [~~643.208~~]. REQUIRED POSTING. (a) All [~~towing and~~] storage fees shall be posted at the licensed vehicle storage facility to which the motor vehicle has been delivered and shall be posted in view of the person who claims the vehicle.

(b) A vehicle storage facility accepting a nonconsent towed vehicle shall post a sign in one inch letters stating "Nonconsent tow fees schedules available on request." The vehicle storage facility shall provide a copy of a nonconsent towing fees schedule on request.

SECTION 2.02. Section 684.101, Transportation Code, is transferred to Subchapter E, Chapter 2308, Occupations Code, and renumbered as Section 2308.208, Occupations Code, to read as follows:

Sec. 2308.208 [~~684.101~~]. MUNICIPAL ORDINANCE REGULATING UNAUTHORIZED VEHICLES. A municipality may adopt an ordinance that is identical to this chapter or that imposes additional requirements that exceed the minimum standards of this chapter but may not adopt an ordinance conflicting with this chapter.

SECTION 2.03. Sections 684.011, 684.012, 684.0125, 684.013, 684.014, and 684.015, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter F, Chapter 2308, Transportation Code, renumbered as Sections 2308.251 through 2308.256, Occupations Code, and amended to read as follows:

SUBCHAPTER F. UNAUTHORIZED VEHICLES

Sec. 2308.251 [~~684.011~~]. PROHIBITION AGAINST UNATTENDED VEHICLES IN CERTAIN AREAS. (a) The owner or operator of a vehicle may not 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;

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

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

(4) does not display the special license plates issued under Section 504.201, Transportation Code, or the disabled parking placard issued under Chapter 681, Transportation Code, for a vehicle transporting a disabled person and is in a parking space that is designated for the exclusive use of a vehicle transporting a disabled person.

(b) Subsection (a) does not apply to an emergency vehicle that is owned by, or the operation of which is authorized by, a governmental entity.

(c) If a government regulation governing the marking of a fire lane applies to a parking facility, a fire lane in the facility must be marked as provided by the regulation. If a government regulation on the marking of a fire lane does not apply to the parking facility, all curbs of fire lanes must be painted red and be conspicuously and legibly marked with the warning "FIRE LANE--TOW

AWAY ZONE" in white letters at least three inches tall, at intervals not exceeding 50 feet.

Sec. 2308.252 [~~684.012~~]. REMOVAL AND STORAGE OF UNAUTHORIZED VEHICLE. (a) A parking facility owner may, without the consent of the owner or operator of an unauthorized vehicle, cause the vehicle and any property on or in the vehicle to be removed and stored at a vehicle storage facility at the vehicle owner's or operator's expense if:

(1) signs that comply with Subchapter G [~~C~~] prohibiting unauthorized vehicles are located on the parking facility at the time of towing and for the preceding 24 hours and remain installed at the time of towing;

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

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

(4) the vehicle is:

(A) left in violation of Section 2308.251 [~~684.011~~] or 2308.253 [~~684.0125~~]; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility [~~and the removal is approved by a peace officer~~].

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

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

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

(B) a description of all other unauthorized areas in the parking facility;

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

(D) a telephone number that is answered 24 hours a day to enable the owner or operator of the vehicle to locate the vehicle; and

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

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

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

(2) describe all other unauthorized areas in the parking facility;

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

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

(d) The mailing of a notice under Subsection (b)(2) is not required if after the notice is attached under Subsection (b)(1) the owner or operator of the vehicle leaves the vehicle in another location where parking is unauthorized for the vehicle according to the notice.

Sec. 2308.253 [~~684.0125~~]. UNATTENDED VEHICLES ON PARKING FACILITY OF APARTMENT COMPLEX; REMOVAL AND STORAGE OF VEHICLES. (a) This section applies only to a parking facility serving or adjacent to an apartment complex consisting of one or more residential apartment units and any adjacent real property serving the apartment complex.

(b) The owner or operator of a vehicle may not leave unattended on a parking facility a vehicle that:

(1) obstructs a gate that is designed or intended for the use of pedestrians or vehicles;

(2) obstructs pedestrian or vehicular access to an area that is used for the placement of a garbage or refuse receptacle used in common by residents of the apartment complex;

(3) is in or obstructs a restricted parking area or parking space designated under Subchapter G [~~C~~], including a space designated for the use of employees or maintenance personnel of the parking facility or apartment complex;

(4) is in a tow away zone, other than a fire lane covered by Section 2308.251(c) [~~684.011(c)~~], that is brightly painted and is conspicuously and legibly marked with the warning "TOW AWAY ZONE" in contrasting letters at least three inches tall;

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

(6) is leaking a fluid that presents a hazard or threat to persons or property.

(c) A parking facility owner may not have an emergency vehicle described by Section 2308.251(b) [~~684.011(b)~~] removed from the parking facility.

(d) Except as provided by a contract described by Subsection (e), a parking facility owner may not have a vehicle removed from the parking facility merely because the vehicle does not display:

(1) 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; or

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

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

(1) delivered in person to the owner or operator of the vehicle; or

(2) sent by certified mail, return receipt requested, to that owner or operator.

(f) This section may not be construed:

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

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

(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.

Sec. 2308.254 [~~684.013~~]. LIMITATION ON PARKING FACILITY OWNER'S AUTHORITY TO REMOVE UNAUTHORIZED VEHICLE. A parking facility owner may not have an unauthorized vehicle removed from the facility except:

(1) as provided by this chapter or a municipal ordinance that complies with Section 2308.208 [~~684.101~~]; or

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

Sec. 2308.255 [~~684.014~~]. TOWING COMPANY'S AUTHORITY TO REMOVE AND STORE UNAUTHORIZED VEHICLE. (a) A towing company that is insured as provided by Subsection (c) may, without the consent of an owner or operator of an unauthorized vehicle, remove and store the vehicle at a vehicle storage facility at the expense of the owner or operator of the vehicle if:

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

(A) the parking facility owner has installed the signs required by Section 2308.252(a)(1) [~~684.012(a)(1)~~]; or

(B) the owner or operator received notice under Section 2308.252(a)(2) [~~684.012(a)(2)~~] or the parking facility owner gave notice complying with Section 2308.252(a)(3) [~~684.012(a)(3)~~]; or

(2) the vehicle is:

(A) left in violation of Section 2308.251 [~~684.011~~]; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility and the removal is approved by a peace officer.

(b) A towing company may not remove an unauthorized vehicle except under:

(1) this chapter;

(2) a municipal ordinance that complies with Section 2308.208 [~~684.101~~]; or

(3) the direction of a peace officer or the owner or operator of the vehicle.

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

(d) A towing company may remove and store a vehicle under Subsection (a) only if the parking facility owner:

(1) requests that the towing company remove and store the specific vehicle; or

(2) has a standing written agreement with the towing company to enforce parking restrictions in the parking facility from which the vehicle will be removed.

Sec. 2308.256 [~~684.015~~]. VEHICLE STORAGE FACILITY'S DUTY TO REPORT AFTER ACCEPTING UNAUTHORIZED VEHICLE. (a) A vehicle storage facility accepting a vehicle that is towed under this chapter shall within two hours after receiving the vehicle report to the police department of the municipality in which the parking facility is located, or, if the parking facility is not located in a municipality having a police department, to the sheriff of the county in which the parking facility is located:

(1) a general description of the vehicle;

(2) the state and number of the vehicle's license plate, if any;

(3) the vehicle identification number of the vehicle, if it can be ascertained;

(4) the location from which the vehicle was towed; and

(5) the name and location of the vehicle storage facility where the vehicle is being stored.

(b) The report required by this section must be made by telephone or delivered personally or by facsimile.

SECTION 2.04. Subchapter C, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter G, Chapter 2308, Occupations Code, and Sections 684.031 through 684.035, Transportation Code, are renumbered as Sections 2308.301 through 2308.305, Occupations Code, and amended to read as follows:

SUBCHAPTER G [~~C~~]. SIGNS PROHIBITING UNAUTHORIZED VEHICLES AND DESIGNATING RESTRICTED AREAS

Sec. 2308.301 [~~684.031~~]. GENERAL REQUIREMENTS FOR SIGN PROHIBITING UNAUTHORIZED VEHICLES. (a) Except as provided by Subsection (a)(2)(B) and Section 2308.304 [~~684.034~~] or 2308.305 [~~684.035~~] an unauthorized vehicle may not be towed under Section 2308.252(a)(1) [~~684.012(a)(1)~~] unless a sign prohibiting unauthorized vehicles on a parking facility is:

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

(2) located:

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

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

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

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

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

(4) installed on the parking facility; and

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

(b) Except as provided by Section 2308.305 [~~684.035~~], an unauthorized vehicle may be towed under Section 2308.252(a)(1) [~~684.012(a)(1)~~] 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 "Unauthorized Vehicles Will Be Towed at Owner's or Operator's Expense";

(6) contains a statement of the days and hours of towing 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 the vehicle.

Sec. 2308.302 [~~684.032~~]. COLOR, LAYOUT, AND LETTERING HEIGHT REQUIREMENTS. (a) Except as provided by Section 2308.305 [~~684.035~~], each sign required by this chapter must comply with the color, layout, and lettering height requirements of this section.

(b) A bright red international towing symbol, which is a solid silhouette of a tow truck towing a vehicle on a generally rectangular white background, at least four inches in height, must be on the uppermost portion of a sign or on a separate sign placed immediately above the sign.

(c) The portion of the sign immediately below the

international towing symbol must contain the words "Towing Enforced" or the information provided by Section 2308.301(b)(4) [~~684.031(b)(4)~~] in lettering at least two inches in height. The lettering on this portion of the sign must consist of white letters on a bright red background.

(d) Except as provided by Subsection (e), the next lower portion of the sign must contain the remaining information required by Section 2308.301(b) [~~684.031(b)~~] displayed in bright red letters at least one inch in height on a white background.

(e) The bottommost portion of the sign must contain the telephone number required by Section 2308.301(b) [~~684.031(b)~~], in lettering at least one inch in height and may, if the facility owner chooses or if an applicable municipal ordinance requires, include the name and address of the storage facility to which an unauthorized vehicle will be removed. The lettering on this portion of the sign must consist of white letters on a bright red background.

Sec. 2308.303 [~~684.033~~]. TELEPHONE NUMBER FOR LOCATING TOWED VEHICLE REQUIRED. If a parking facility owner posts a sign described by Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~], the owner of a vehicle that is towed from the facility under this chapter must be able to locate the vehicle by calling the telephone number on the sign.

Sec. 2308.304 [~~684.034~~]. DESIGNATION OF RESTRICTED PARKING SPACES ON OTHERWISE UNRESTRICTED PARKING FACILITY. A parking facility owner may designate one or more spaces as restricted parking spaces on a portion of an otherwise unrestricted parking facility. Instead of installing a sign at each entrance to the parking facility as provided by Section 2308.301(a)(2) [~~684.031(a)(2)~~], an owner may place a sign that prohibits unauthorized vehicles from parking in designated spaces and that

otherwise complies with Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~]:

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

(2) at the end of a restricted parking space so that the sign, the top of which must not be higher than seven feet above the ground, is in front of a vehicle that is parked in the space and the rear of which is at the entrance of the space.

Sec. 2308.305 [~~684.035~~]. INDIVIDUAL PARKING RESTRICTIONS IN RESTRICTED AREA. (a) A parking facility owner who complies with Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~] may impose further specific parking restrictions in an area to which the signs apply for individual spaces by installing or painting a weather-resistant sign or notice on a curb, pole, post, permanent wall, or permanent barrier so that the sign is in front of a vehicle that is parked in the space and the rear of which is at the entrance of the space.

(b) The top of the sign or notice may not be higher than seven feet above the ground.

(c) The sign or notice must include an indication that the space is reserved for a particular unit number, person, or type of person.

(d) The letters on the sign or notice must be at least two inches in height and must contrast to the color of the curb, wall, or barrier so they can be read during the day and at night. The letters are not required to be illuminated or made of reflective material.

SECTION 2.05. Subchapter D, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter H, Chapter 2308, Occupations Code, and

Sections 684.051 through 684.054, Transportation Code, are renumbered as Sections 2308.351 through 2308.354, Occupations Code, and amended to read as follows:

SUBCHAPTER H [~~D~~]. REGULATION OF PARKING ON CERTAIN PUBLIC ROADWAY AREAS

Sec. 2308.351 [~~684.051~~]. REMOVAL OF UNAUTHORIZED VEHICLE FROM LEASED RIGHT-OF-WAY. Unless prohibited by the lease, a parking facility owner or towing company may remove an unauthorized vehicle parked in a leased area described by Section 2308.002(7)(B)(i) [~~684.001(1)(B)(i)~~] if the owner or towing company gives notice under Section 2308.252(a)(1), (2), or (3) [~~684.012(a)(1), (2), or (3)~~] and otherwise complies with this chapter.

Sec. 2308.352 [~~684.052~~]. REMOVAL OF UNAUTHORIZED VEHICLE FROM AREA BETWEEN PARKING FACILITY AND PUBLIC ROADWAY. Unless prohibited by a municipal ordinance, a parking facility owner or towing company may remove an unauthorized vehicle any part of which is in an area described by Section 2308.002(7)(B)(ii) [~~684.001(1)(B)(ii)~~] if notice provided by Section 2308.252(a)(2) or (3) [~~684.012(a)(2) or (3)~~] is given and the owner or towing company has otherwise complied with this chapter.

Sec. 2308.353 [~~684.053~~]. REMOVAL UNDER GOVERNMENTAL ENTITY'S AUTHORITY OF UNAUTHORIZED VEHICLE PARKED IN RIGHT-OF-WAY. (a) A governmental entity that has jurisdiction over a public roadway and that has posted one or more signs in the right-of-way stating that parking is prohibited in the right-of-way may:

(1) remove or contract with a towing company to remove an unauthorized vehicle parked in the right-of-way of the public roadway; or

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

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

(B) remove vehicles from the right-of-way of the public roadway under this chapter.

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

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

(2) be placed facing the public roadway:

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

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

(3) in all other respects comply with Subchapter G [~~C~~].

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

Sec. 2308.354 [~~684.054~~]. AUTHORITY FOR REMOVAL OF VEHICLE FROM PUBLIC ROADWAY. (a) Under an ordinance of a municipality regulating the parking of vehicles in the municipality, to aid in the enforcement of the ordinance, an employee designated by the municipality may be authorized to:

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

(2) remove an immobilized vehicle from a public roadway in the municipality.

(b) A parking facility owner or towing company may not remove a vehicle from a public roadway except under:

(1) this chapter or a municipal ordinance that complies with Section 2308.208 [~~684.101~~]; or

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

SECTION 2.06. Subchapter E, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter I, Chapter 2308, Occupations Code, and Sections 684.081 through 684.087, Transportation Code, are renumbered as Sections 2308.401 through 2308.407, Occupations Code, to read as follows:

SUBCHAPTER I [~~E~~]. REGULATION OF TOWING COMPANIES AND PARKING FACILITY OWNERS

Sec. 2308.401 [~~684.081~~]. PARKING FACILITY OWNER PROHIBITED FROM RECEIVING FINANCIAL GAIN FROM TOWING COMPANY. (a) A parking facility owner may not directly or indirectly accept anything of value from a towing company in connection with the removal of a vehicle from a parking facility.

(b) A parking facility owner may not have a direct or indirect monetary interest in a towing company that for compensation removes unauthorized vehicles from a parking facility in which the parking facility owner has an interest.

Sec. 2308.402 [~~684.082~~]. TOWING COMPANY PROHIBITED FROM FINANCIAL INVOLVEMENT WITH PARKING FACILITY OWNER. (a) A towing company may not directly or indirectly give anything of value to a parking facility owner in connection with the removal of a vehicle from a parking facility.

(b) A towing company may not have a direct or indirect monetary interest in a parking facility from which the towing company for compensation removes unauthorized vehicles.

Sec. 2308.403 [~~684.083~~]. LIMITATION ON LIABILITY OF PARKING FACILITY OWNER FOR REMOVAL OR STORAGE OF UNAUTHORIZED VEHICLE. A

parking facility owner who causes the removal of an unauthorized vehicle is not liable for damages arising from the removal or storage of the vehicle if the vehicle:

(1) was removed in compliance with this chapter; and

(2) is:

(A) removed by a towing company insured against liability for property damage incurred in towing a vehicle; and

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

Sec. 2308.404 [~~684.084~~]. CIVIL LIABILITY OF TOWING COMPANY OR PARKING FACILITY OWNER FOR VIOLATION OF CHAPTER. (a) A towing company or parking facility owner who violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for:

(1) damages arising from the removal or storage of the vehicle; and

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

(b) A vehicle's owner or operator is not required to prove negligence of a parking facility owner or towing company to recover under Subsection (a).

(c) A towing 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 $300 plus three times the amount of fees assessed in the vehicle's removal, towing, or storage.

(d) In a suit brought under this chapter, the prevailing party is entitled to recover reasonable attorney's fees.

Sec. 2308.405 [~~684.085~~]. VIOLATION OF CHAPTER; FINE. A violation of this chapter is a misdemeanor punishable by a fine of

not less than $500 or more than $1,500.

Sec. 2308.406 [~~684.086~~]. VIOLATION OF CHAPTER; INJUNCTION. A violation of this chapter may be enjoined under Subchapter E, Chapter 17, Business & Commerce Code.

Sec. 2308.407 [~~684.087~~]. MINOR SIGN OR LETTERING HEIGHT VARIATIONS. A minor variation of a required or minimum height of a sign or lettering is not a violation of this chapter.

SECTION 2.07. Sections 685.002 through 685.010, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter J, Chapter 2308, Occupations Code, renumbered as Sections 2308.451 through 2308.459, Occupations Code, and amended to read as follows:

SUBCHAPTER J. RIGHTS OF OWNERS AND OPERATORS OF STORED VEHICLES

Sec. 2308.451 [~~685.002~~]. PAYMENT OF COST OF REMOVAL AND STORAGE OF VEHICLE. (a) If in a hearing held under this chapter the court finds that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person who requested the hearing shall pay the costs of the removal and storage.

(b) If in a hearing held under this chapter the court does not find that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person or law enforcement agency that authorized the removal shall:

(1) pay the costs of the removal and storage; or

(2) reimburse the owner or operator for the cost of the removal and storage paid by the owner or operator.

Sec. 2308.452 [~~685.003~~]. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO HEARING. The owner or operator of a vehicle that has been removed and placed in a vehicle storage facility without the consent of the owner or operator of the vehicle is entitled to a

hearing on whether probable cause existed for the removal and placement.

Sec. 2308.453 [~~685.004~~]. JURISDICTION. A hearing under this chapter shall be in the justice court having jurisdiction in the precinct in which the vehicle storage facility is located.

Sec. 2308.454 [~~685.005~~]. NOTICE TO VEHICLE OWNER OR OPERATOR. (a) If before a hearing held under this chapter the owner or operator of a vehicle pays the costs of the vehicle's 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 chapter.

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

Sec. 2308.455 [~~685.006~~]. CONTENTS OF NOTICE. The notice under Section 2308.454 [~~685.005~~] must include:

(1) a statement of:

(A) the person's right to submit a request within 14 days for a court hearing to determine whether probable cause existed to remove the vehicle;

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

(C) any filing fee for the hearing;

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

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

(4) the name, address, and telephone number of the person, property owner, or law enforcement agency that authorized

the removal of the vehicle; and

(5) the name, address, and telephone number of the justice court having jurisdiction in the precinct in which the vehicle storage facility is located.

Sec. 2308.456 [~~685.007~~]. REQUEST FOR HEARING. (a) Except as provided by Subsection (c), a person entitled to a hearing under this chapter must deliver a written request for the hearing to the court before the 14th day after the date the vehicle was removed and placed in the vehicle storage facility, excluding Saturdays, Sundays, and legal holidays.

(b) A request for a hearing must contain:

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

(2) the location from which the vehicle was removed;

(3) the date when the vehicle was removed;

(4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal;

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

(6) the name, address, and telephone number of the towing company that removed the vehicle;

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

(8) if the vehicle was removed from a parking facility:

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

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

(c) If notice was not given under Section 2308.454 [~~685.005~~], the 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.

(d) A person who fails to deliver a request in accordance with Subsection (a) waives the right to a hearing.

Sec. 2308.457 [~~685.008~~]. FILING FEE AUTHORIZED. The court may charge a filing fee of $20 for a hearing under this chapter.

Sec. 2308.458 [~~685.009~~]. HEARING. (a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing.

(b) The court shall notify the person who requested the hearing, [~~and~~] the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure [~~by registered or certified mail~~]. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.

(b-1) At a hearing under this section:

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

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

(c) The issues in a hearing 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 [~~643.201~~] or 2308.202 [~~643.203~~];

(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 [~~643.204~~] or 2308.204 [~~643.205~~]; or

(4) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount filed with the department under Section 2308.206 [~~643.207~~].

(d) The court shall make written findings of fact and a conclusion of law.

(e) The court may award:

(1) court costs to the prevailing party;

(2) the reasonable cost of photographs submitted under Section 2308.456(b)(8) [~~685.007(b)(8)~~] to a vehicle owner or operator who is the prevailing party; [~~and~~]

(3) an amount equal to the amount that the towing charge exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303; and

(4) reimbursement of fees paid for vehicle towing and storage [~~, Occupations Code~~].

Sec. 2308.459 [~~685.010~~]. APPEAL. An appeal from a hearing under this chapter is governed by the rules of procedure applicable to civil cases in justice court, except that no appeal bond may be required by the court.

SECTION 2.08. Subchapter J, Chapter 2308, Occupations Code, as added by this Act, is amended by adding Section 2308.460 to read as follows:

Sec. 2308.460. ENFORCEMENT OF AWARD. An award under this chapter may be enforced by any means available for the enforcement of a judgment for a debt.

SECTION 2.09. Chapter 2308, Occupations Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. ENFORCEMENT

Sec. 2308.501. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates:

(1) this chapter or a rule adopted under this chapter; or

(2) a rule or order of the executive director or commission.

(b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 2308.502. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

Sec. 2308.503. SANCTIONS. The department may impose sanctions as provided by Section 51.353.

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

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

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

(3) employs an individual who does not hold the appropriate license required by this chapter; or

(4) falsifies a certification or training.

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

SECTION 2.10. Section 643.253(d), Transportation Code, is transferred to Subchapter K, Chapter 2308, Occupations Code, renumbered as Section 2308.505, Occupations Code, and amended to read as follows:

Sec. 2308.505. CRIMINAL PENALTY; TOWING. (a) [~~(d)~~] 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 [~~643.201~~] or 2308.202 [~~643.203~~], 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 [~~643.201~~] or 2308.202 [~~643.203~~] 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 [~~643.205~~];

(4) charges or collects a fee in excess of the amount filed with the department under Section 2308.206 [~~643.207~~];

(5) violates Section 2308.205 [~~643.206~~]; or

(6) violates a rule of the department applicable to a tow truck and towing company.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $200 or more than $1,000 per violation.

ARTICLE 3. CONFORMING AMENDMENTS

SECTION 3.01. Article 18.23(e), Code of Criminal Procedure, is amended to read as follows:

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(e) Subchapter J, Chapter 2308, Occupations Code [~~Chapter 685, Transportation Code~~], does not apply to a motor vehicle directed by a law enforcement agency to be towed and stored for an evidentiary or examination purpose.

SECTION 3.02. Section 101.141(a), Government Code, is amended to read as follows:

(a) A clerk of a justice court shall collect fees and costs as follows:

(1) additional court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the commissioners court of a county with a population of at least 2.5 million (Sec. 152.005, Civil Practice and Remedies Code) . . . not to exceed $3;

(2) additional filing fees:

(A) to fund Dallas County civil court facilities (Sec. 51.705, Government Code) . . . not more than $15; and

(B) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $2;

(3) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . $1.50;

(4) fee for hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 2308.457, Occupations Code [~~685.008, Transportation Code~~]) . . . $20;

(5) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec.

14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(6) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid;

(7) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding; and

(8) the cost of a special program that a court may order a child to attend after a finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed $100.

SECTION 3.03. Section 101.161, Government Code, is amended to read as follows:

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Sec. 101.161. MUNICIPAL COURT FEES AND COSTS. The clerk of a municipal court shall collect:

(1) a fee for a hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 2308.457, Occupations Code [~~685.008, Transportation Code~~]) . . . $20; and

(2) the cost of a special program that a court may order a child to attend after finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed $100.

SECTION 3.04. Section 2303.155(f), Occupations Code, is amended to read as follows:

(f) The operator of a vehicle storage facility or governmental vehicle storage facility may not charge an additional fee related to the storage of a vehicle other than a fee authorized by this section or a towing fee authorized by Chapter 2308 [~~Chapter 643, Transportation Code~~].

SECTION 3.05. Section 504.508(c), Transportation Code, is amended to read as follows:

(c) Proof of eligibility for license plates under this section must include a copy of the permit [~~registration~~] certificate issued by the Texas Department of Licensing and Regulation [~~department~~] for the tow truck.

SECTION 3.06. Section 643.002, Transportation Code, is amended to read as follows:

Sec. 643.002. EXEMPTIONS. This chapter does not apply to:

(1) a motor vehicle registered under the single state registration system established under 49 U.S.C. Section 14504(c) when operating exclusively in interstate or international commerce;

(2) a motor vehicle registered as a cotton vehicle

under Section 502.277;

(3) a motor vehicle the department by rule exempts because the vehicle is subject to comparable registration and a comparable safety program administered by another governmental entity;

(4) a motor vehicle used to transport passengers operated by an entity whose primary function is not the transportation of passengers, such as a vehicle operated by a hotel, day-care center, public or private school, nursing home, or similar organization;

(5) a vehicle operating under a private carrier permit issued under Chapter 42, Alcoholic Beverage Code; [~~or~~]

(6) a vehicle operated by a governmental entity; or

(7) a tow truck, as defined by Section 2308.002, Occupations Code.

SECTION 3.07. Section 643.051(a), Transportation Code, is amended to read as follows:

(a) A motor carrier may not operate a commercial motor vehicle, as defined by Section 548.001, [~~or a tow truck~~] on a road or highway of this state unless the carrier registers with the department under this subchapter.

SECTION 3.08. Section 643.053, Transportation Code, is amended to read as follows:

Sec. 643.053. FILING OF APPLICATION. An application under Section 643.052 must be filed with the department and accompanied by:

(1) an application fee of $100 plus a $10 fee for each vehicle requiring registration [~~other than a tow truck or a $25 fee for each tow truck the motor carrier proposes to operate~~];

(2) evidence of insurance or financial responsibility as required by Section 643.103(a); and

(3) any insurance filing fee required under Section 643.103(c).

SECTION 3.09. Sections 643.057(a) and (d), Transportation Code, are amended to read as follows:

(a) A motor carrier may not operate an additional vehicle requiring registration unless the carrier pays a registration fee of $10 for each additional vehicle [~~other than a tow truck or $25 for each tow truck~~] and shows the department evidence of insurance or financial responsibility for the vehicle in an amount at least equal to the amount set by the department under Section 643.101.

(d) The department may not collect more than $10 in equipment registration fees for a vehicle [~~other than a tow truck~~] registered under both this subchapter and Chapter 645 [~~or more than $25 if the vehicle is a tow truck~~].

SECTION 3.10. Section 643.058(c), Transportation Code, is amended to read as follows:

(c) A motor carrier may renew a registration under this subchapter by:

(1) supplementing the application with any new information required under Section 643.056;

(2) paying a $10 fee for each vehicle requiring registration [~~other than a tow truck or a fee of $25 for each tow truck the carrier operates~~]; and

(3) providing the department evidence of continuing insurance or financial responsibility in an amount at least equal to the amount set by the department under Section 643.101.

SECTION 3.11. Section 643.061(b), Transportation Code, is amended to read as follows:

(b) A motor carrier applying for registration under this section must pay:

(1) a $20 fee for each vehicle registered [~~other than a~~

~~tow truck or a fee of $50 for each tow truck~~] under Subsection (a)(1);

(2) a $10 fee for each vehicle registered [~~other than a tow truck or a fee of $25 for each tow truck~~] under Subsection (a)(2); and

(3) application and insurance filing fees the department by rule adopts in an amount not to exceed $100 each.

SECTION 3.12. Section 643.253(e), Transportation Code, is amended to read as follows:

(e) An offense under Subsection (b) [~~or (d)~~] is a misdemeanor punishable by a fine of not less than $200 or more than $1,000 per violation.

SECTION 3.13. Section 1(1), Chapter 528, Acts of the 76th Legislature, Regular Session, 1999 (Article 178d-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) "Parking facility," "parking facility owner," and "vehicle" have the meanings assigned by Section 2308.002, Occupations Code [~~684.001, Transportation Code~~].

ARTICLE 4. TRANSITION AND EFFECTIVE DATE

SECTION 4.01. (a) The following provisions of the Transportation Code are repealed:

(1) Section 643.001(7);

(2) Section 643.101(d);

(3) Section 643.202;

(4) Section 684.001;

(5) Section 685.001;

(6) the heading to Subchapter E, Chapter 643;

(7) the heading to Chapter 684;

(8) the headings to Subchapters A, B, and F, Chapter 684; and

(9) the heading to Chapter 685.

(b) Subchapters E and F, Chapter 2303, Occupations Code, are repealed.

SECTION 4.02. As soon as practicable after the effective date of this Act, the presiding officer of the Texas Commission of Licensing and Regulation shall make the initial appointments to the Towing and Storage Advisory Board. The presiding officer shall appoint two members to terms expiring February 1, 2009, three members to terms expiring February 1, 2011, and three members to terms expiring February 1, 2013.

SECTION 4.03. (a) As soon as practicable after the effective date of this Act, the Texas Department of Transportation and the Texas Department of Licensing and Regulation shall develop and enter into a memorandum of understanding regarding the transfer described in this section that includes a transition plan for transferring the functions performed by the Texas Transportation Commission and the Texas Department of Transportation that relate to tow trucks, towing operations, or vehicle storage facilities to the Texas Department of Licensing and Regulation. The transition plan must include a timetable with specific steps and deadlines needed to complete the transfer, and may include provisions for the extension of expiration dates for licenses.

(b) In accordance with the transition plan developed by the Texas Department of Transportation and the Texas Department of Licensing and Regulation under Subsection (a) of this section, on January 1, 2008:

(1) all functions and activities performed by the Texas Transportation Commission and the Texas Department of Transportation relating to tow trucks, towing operations, or vehicle storage facilities immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Transportation

Commission and the Texas Department of Transportation that relates to tow trucks, towing operations, or vehicle storage facilities is a rule or form of the Texas Commission of Licensing and Regulation or the Texas Department of Licensing and Regulation, as applicable, and remains in effect until amended or replaced by that commission or department;

(3) a reference in law to or an administrative rule of the Texas Transportation Commission and the Texas Department of Transportation that relates to tow trucks, towing operations, or vehicle storage facilities means the Texas Commission of Licensing and Regulation or the Texas Department of Licensing and Regulation, as applicable;

(4) a complaint, investigation, or other proceeding before the Texas Transportation Commission or the Texas Department of Transportation that is related to tow trucks, towing operations, or vehicle storage facilities is transferred without change in status to the Texas Department of Licensing and Regulation, and the Texas Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Transportation Commission and the Texas Department of Transportation in an action or proceeding to which the Texas Transportation Commission or the Texas Department of Transportation is a party;

(5) all full-time equivalent employee positions at the Texas Department of Transportation that primarily concern the administration of tow trucks, towing operations, or vehicle storage facilities become positions at the Texas Department of Licensing and Regulation, and when filling the positions, the Texas Department of Licensing and Regulation shall give first consideration to an applicant who, as of December 31, 2007, was a full-time employee at the Texas Department of Transportation

primarily involved in administering tow trucks, towing operations, or vehicle storage facilities;

(6) all money, contracts, leases, property, and obligations of the Texas Department of Transportation related to the regulation of tow trucks, towing operations, or vehicle storage facilities are transferred to the Texas Department of Licensing and Regulation;

(7) all property in the custody of the Texas Department of Transportation related to tow trucks, towing operations, or vehicle storage facilities is transferred to the Texas Department of Licensing and Regulation; and

(8) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Transportation Commission and the Texas Department of Transportation related to tow trucks, towing operations, or vehicle storage facilities is transferred to the Texas Department of Licensing and Regulation.

(c) Before January 1, 2008, the Texas Department of Transportation may agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Department of Transportation to the Texas Department of Licensing and Regulation to implement the transfer required by this Act.

(d) In the period beginning with the effective date of this Act and ending on December 31, 2007, the Texas Transportation Commission and the Texas Department of Transportation shall continue to perform functions and activities under Chapter 2303, Occupations Code, and those portions of Chapters 643 and 684, Transportation Code, that relate to tow trucks, towing operations, or vehicle storage facilities, as if those laws were not amended by this Act, and the former law is continued in effect for that purpose.

SECTION 4.04. Not later than April 1, 2008, the Texas

Commission of Licensing and Regulation shall adopt rules relating to an original application for a permit or license under Chapter 2303, Occupations Code, as amended by this Act, and Chapter 2308, Occupations Code, as added by this Act.

SECTION 4.05. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2007.

(b) Section 2308.504, Occupations Code, as added by this Act, and Subchapters C and D, Chapter 2308, Occupations Code, as added by this Act, take effect September 1, 2008.

ADOPTED

MAY 22 2007

Secretary of the Senate

FLOOR AMENDMENT NO. 2 to F.A. 1 BY: Jane Nelson

Amend H.B. 2094 by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. Section 2303.155, Occupations Code, is amended by amending Subsection (b) and adding Subsection (h) to read as follows:

(b) Except as provided by Subsection (h), the [~~The~~] operator of a vehicle storage facility or governmental vehicle storage facility may charge the owner of a vehicle stored or parked at the facility:

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

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

(A) is taken by or at the direction of the owner 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) $35 for each day or part of a day the vehicle is stored at the facility if the vehicle is longer than 25 feet; and

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

(h) The operator of a vehicle storage facility or

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governmental vehicle storage facility may not charge a fee under Subsection (b) to the owner of a vehicle stored or parked at the facility as a result of recovery of the vehicle after being stolen if the vehicle owner provides the operator with a copy of the police report or similar report prepared by any law enforcement agency showing that the vehicle was reported stolen.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 17, 2007

TO: Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2094** by Hill (Relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Transportation Code to require a court to notify the vehicle storage facility in which a vehicle was placed of the date, time, and place of a hearing regarding the removal of the vehicle. The notification would be in addition to the notification required under current statute to notify the person who requested the hearing and the person or law enforcement agency that authorized removal of the vehicle.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:
LBB Staff: JOB, KJG, DB

SENATE AMENDMENTS

07 MAY 24 AM 3: 11
HOUSE OF REPRESENTATIVES

2nd Printing

By: Hill H.B. No. 2094

A BILL TO BE ENTITLED

AN ACT

relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.

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

SECTION 1. Section 685.007(b), Transportation Code, is amended to read as follows:

(b) A request for a hearing must contain:

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

(2) the location from which the vehicle was removed;

(3) the date when the vehicle was removed;

(4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal;

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

(6) the name, address, and telephone number of the towing company that removed the vehicle;

(7) a copy of any receipt or notification that the owner or operator received from the towing company or the vehicle storage facility; [~~and~~]

(8) if the vehicle was removed from a parking facility:

(A) one or more photographs that show the location and text of any sign posted at the facility restricting

parking of vehicles; or

(B) a statement that no sign restricting parking was posted at the parking facility; and

(9) a statement explaining each reason why the owner or operator of the vehicle believes no probable cause existed to remove the vehicle.

SECTION 2. Sections 685.009(a), (b), and (e), Transportation Code, are amended to read as follows:

(a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing.

(b) The court shall notify the person who requested the hearing, [~~and~~] the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure [~~by registered or certified mail~~]. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.

(e) The court may award:

(1) court costs to the prevailing party;

(2) the reasonable cost of photographs submitted under Section 685.007(b)(8) to a vehicle owner or operator who is the prevailing party; [~~and~~]

(3) an amount equal to the amount that the towing charge exceeded fees regulated by a political subdivision or

authorized by this code or by Chapter 2303, Occupations Code; and

(4) reimbursement of fees paid for vehicle towing and storage.

SECTION 3. Chapter 685, Transportation Code, is amended by adding Section 685.011 to read as follows:

Sec. 685.011. ENFORCEMENT OF AWARD. An award under this chapter may be enforced by any means available for the enforcement of judgment for debts.

SECTION 4. The changes in law made by this Act apply only to a motor vehicle removed and stored on or after the effective date of this Act. The removal and storage of a vehicle before the effective date of this Act is governed by the law in effect on the date the vehicle was removed and stored, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2007.

ADOPTED

MAY 22 2007

Secretary of the Senate

By: Hill/Carona H.B. No. 2094

Substitute the following for H.B. No. 2094:

By: Carona C.S.H.B. No. 2094

A BILL TO BE ENTITLED

AN ACT

relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.

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

SECTION 1. Sections 685.009(a), (b), and (e), Transportation Code, are amended to read as follows:

(a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing.

(b) The court shall notify the person who requested the hearing, [~~and~~] the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure [~~by registered or certified mail~~]. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.

(e) The court may award:

(1) court costs to the prevailing party;

(2) the reasonable cost of photographs submitted under Section 685.007(b)(8) to a vehicle owner or operator who is the prevailing party; [~~and~~]

(3) an amount equal to the amount that the towing

charge exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303, Occupations Code; and

(4) reimbursement of fees paid for vehicle towing and storage.

SECTION 2. Chapter 685, Transportation Code, is amended by adding Section 685.011 to read as follows:

Sec. 685.011. ENFORCEMENT OF AWARD. An award under this chapter may be enforced by any means available for the enforcement of judgment for debts.

SECTION 3. The changes in law made by this Act apply only to a motor vehicle removed and stored on or after the effective date of this Act. The removal and storage of a vehicle before the effective date of this Act is governed by the law in effect on the date the vehicle was removed and stored, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2007.

ADOPTED

MAY 22 2007

Secretary of the Senate

FLOOR AMENDMENT NO. 1 BY: Carona

Amend H.B. No. 2094 by striking all below the enacting clause and substituting the following:

ARTICLE 1. LICENSING AND REGULATION OF TOWING AND VEHICLE STORAGE

SECTION 1.01. Sections 2303.002(2), (3), and (4), Occupations Code, are amended to read as follows:

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

(3) "Department" means the Texas Department of Licensing and Regulation [~~Transportation~~].

(4) "Executive director [~~Director~~]" means the executive director of the department [~~or a person designated by the executive director who is not below the rank of division or special office director~~].

SECTION 1.02. Section 2303.051, Occupations Code, is amended to read as follows:

Sec. 2303.051. RULEMAKING: LICENSE REQUIREMENTS[~~+ SANCTIONS~~]. The commission shall adopt rules that:

(1) establish the requirements for a person to be licensed to operate a vehicle storage facility to ensure that the facility maintains adequate standards for the care of stored vehicles; [~~and~~]

(2) relate to the administrative sanctions that may be imposed on a person licensed under this chapter;

(3) govern the administration of this chapter.

SECTION 1.03. Subchapter B, Chapter 2303, Occupations Code, is amended by adding Sections 2303.055, 2303.056, 2303.057, and 2303.058 to read as follows:

Sec. 2303.055. EXAMINATION OF CRIMINAL CONVICTION. The department may conduct an examination of any criminal conviction of

an applicant, including by obtaining any criminal history record information permitted by law.

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.

Sec. 2303.057. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter.

Sec. 2303.058. ADVISORY BOARD. The Towing and Storage

Advisory Board under Chapter 2308 shall advise the commission in adopting vehicle storage rules under this chapter.

SECTION 1.04. The heading to Section 2303.101, Occupations Code, is amended to read as follows:

Sec. 2303.101. FACILITY LICENSE REQUIRED.

SECTION 1.05. Subchapter C, Chapter 2303, Occupations Code, is amended by adding Section 2303.1015 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.

(b) The commission shall adopt rules governing the application for and issuance of a license under this section.

SECTION 1.06. Sections 2303.102(a) and (b), Occupations Code, are amended to read as follows:

(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 executive director.

(b) The rules adopted [~~by the commission~~] under this section must require an [~~the~~] application for a facility license [~~to be made under oath and~~] to list:

(1) the name and address of each partner, if the applicant is a partnership; and

(2) the name and address of the president, secretary, and treasurer of the corporation, if the applicant is a corporation [~~; and~~

[~~(3) each conviction of a felony, or of a misdemeanor punishable by confinement in jail or by a fine exceeding $200, that was obtained against the applicant or a partner or officer of the applicant in the three years preceding the date of application~~].

SECTION 1.07. Section 2303.151(c), Occupations Code, is amended to read as follows:

(c) It is a defense to an action initiated by the department for a violation of this section that the operator of the facility unsuccessfully attempted in writing <u>or electronically</u> to obtain information from the governmental entity with which the vehicle is registered.

SECTION 1.08. Section 2303.155(b), Occupations Code, is amended to read as follows:

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

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

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

(A) is taken by or at the direction of the owner 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) $35 for each day or part of a day the vehicle is stored at the facility if the vehicle is longer than 25 feet; [~~and~~]

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

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

SECTION 1.09. Subchapter D, Chapter 2303, Occupations Code, is amended by adding Section 2303.160 to read as follows:

Sec. 2303.160. DRUG TESTING OF EMPLOYEES. (a) A license holder shall establish a drug testing policy for employees of the vehicle storage facility operated by the license holder. A license holder that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted by the commission.

(b) The commission by rule shall adopt a model drug testing policy for use by license holders. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. The model drug testing policy must:

(1) require at least one scheduled drug test each year for each employee of a vehicle storage facility who has direct contact with the public; and

(2) authorize random, unannounced drug testing for employees described by Subdivision (1).

SECTION 1.10. Section 2303.302, Occupations Code, is amended to read as follows:

Sec. 2303.302. CRIMINAL PENALTIES. (a) A person commits an offense if the person:

(1) violates the licensing requirements of [~~operates a vehicle storage facility for which a license has not been issued under~~] this chapter; or

(2) employs an individual who does not hold an appropriate license required by [~~violates a rule adopted by the commission under~~] this chapter.

(b) An offense under this section is a Class C misdemeanor [~~punishable by a fine of not less than $200 and not more than $500~~].

[~~(c) A person commits a separate offense for each day the person violates this section.~~]

SECTION 1.11. Subchapter G, Chapter 2303, Occupations Code, is amended by adding Sections 2303.304 and 2303.305 to read as follows:

Sec. 2303.304. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates:

(1) this chapter or a rule adopted under this chapter; or

(2) a rule or order of the executive director or commission.

(b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 2303.305. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

SECTION 1.12. Subtitle A, Title 14, Occupations Code, is amended by adding Chapter 2308 to read as follows:

CHAPTER 2308. VEHICLE TOWING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2308.001. SHORT TITLE. This chapter may be cited as the Texas Towing Act.

Sec. 2308.002. DEFINITIONS. In this chapter:

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

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

(3) "Consent tow" means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.

(4) "Department" means the Texas Department of Licensing and Regulation.

(5) "Driver's license" has the meaning assigned by Section 521.001, Transportation Code.

(6) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow.

(7) "Parking facility" means public or private property used, wholly or partly, for restricted or paid vehicle parking. The term includes:

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

(B) a commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, home, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including:

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

(ii) the area between the facility's

property line abutting a county or municipal public roadway and the center line of the roadway's drainage way or the curb of the roadway, whichever is farther from the facility's property line.

(8) "Parking facility owner" means:

(A) an owner or operator of a parking facility, including a lessee, employee, or agent of an owner or operator;

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

(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.

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

(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.

(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.

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

(13) "Unauthorized vehicle" means a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner.

(14) "Vehicle" means a device in, on, or by which a person or property may be transported on a public roadway. The term

includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer but does not include a device moved by human power or used exclusively on a stationary rail or track.

(15) "Vehicle owner" means a person:

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

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

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

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

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

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

Sec. 2308.003. STUDY OF NONCONSENT TOWING FEES. (a) The department shall study the fees charged by license and permit holders for nonconsent tows, compliance of license and permit holders with local regulations governing towing fees, and consumer complaints related to fees for nonconsent tows. Not later than January 1, 2009, the department shall report to the legislature the findings of the study, including any recommendations for state regulation of towing fees.

(b) This section expires September 1, 2009.

[Sections 2308.004-2308.050 reserved for expansion]

SUBCHAPTER B. ADVISORY BOARD

Sec. 2308.051. TOWING AND STORAGE ADVISORY BOARD. (a) The advisory board consists of the following members appointed by the presiding officer of the commission with the approval of the commission:

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

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

(3) one owner of a vehicle storage facility located in a county with a population of less than one million;

(4) one owner of a vehicle storage facility located in a county with a population of one million or more;

(5) one parking facility owner;

(6) one law enforcement officer from a county with a population of less than one million;

(7) one law enforcement officer from a county with a population of one million or more; and

(8) one representative of property and casualty insurers who write automobile insurance in this state.

(b) The advisory board must include representation for each classification of towing.

(c) An appointment to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 2308.052. TERMS; VACANCIES. (a) Advisory board members serve terms of six years, with the terms of two or three members, as appropriate, expiring on February 1 of each odd-numbered year.

(b) A member may not serve more than two full consecutive terms.

(c) If a vacancy occurs during a term, the presiding officer of the commission shall appoint a replacement who meets the qualifications of the vacated position to serve for the remainder of the term.

Sec. 2308.053. PRESIDING OFFICER. The presiding officer of the commission shall appoint one of the advisory board members to serve as presiding officer of the advisory board for a term of one year. The presiding officer of the advisory board may vote on any matter before the advisory board.

Sec. 2308.054. COMPENSATION; REIMBURSEMENT OF EXPENSES. Advisory board members may not receive compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the advisory board, subject to the General Appropriations Act.

Sec. 2308.055. MEETINGS. The advisory board shall meet twice annually and may meet at other times at the call of the presiding officer of the commission or the executive director.

Sec. 2308.056. GENERAL POWERS AND DUTIES. The executive director or commission, as appropriate, may take action as necessary to administer and enforce this chapter.

Sec. 2308.057. RULES. (a) The commission shall adopt rules for permitting tow trucks and licensing towing operators and towing companies.

(b) The commission by rule shall adopt standards of conduct for license and permit holders under this chapter.

Sec. 2308.058. FEES. The commission shall establish and collect reasonable and necessary fees in amounts sufficient to cover the costs of administering this chapter.

Sec. 2308.059. 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 or permit holder is in violation of this chapter or in violation of a rule or order of the commission or executive director.

(b) 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 towing company or operator;

(2) the inspection history;

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

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

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

(d) In conducting an inspection under this section, the department may inspect a vehicle, a facility, business records, or any other place or thing reasonably required to enforce this chapter or a rule or order adopted under this chapter.

Sec. 2308.060. POWERS AND DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration and enforcement of this chapter, including examination content, licensing standards, and continuing education requirements.

Sec. 2308.061. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter.

[Sections 2308.062-2308.100 reserved for expansion]

SUBCHAPTER C. TOW TRUCK PERMIT REQUIREMENTS

Sec. 2308.101. PERMIT REQUIRED. A tow truck may not be used for consent towing or nonconsent towing on a public roadway in this state unless an appropriate permit has been issued for the tow truck under this subchapter. Each tow truck requires a separate permit.

Sec. 2308.102. APPLICATION REQUIREMENTS. (a) An applicant for a permit under this subchapter must submit to the department:

(1) a completed application on a form prescribed by the executive director;

(2) evidence of insurance or financial responsibility required under this subchapter;

(3) the required fees; and

(4) any other information required by the executive director.

(b) The department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.

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(e), Transportation Code.

Sec. 2308.104. REQUIREMENTS FOR PRIVATE PROPERTY TOWING PERMIT. (a) A private property towing permit is required for a tow truck used to perform a nonconsent tow authorized by a parking facility owner under this chapter.

(b) To be eligible for a private property 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 $300,000 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 consent towing but not for incident management towing.

Sec. 2308.105. REQUIREMENTS FOR CONSENT TOWING PERMIT. (a) A consent towing permit is required for a tow truck used to perform a consent tow authorized by the vehicle owner.

(b) To be eligible for a consent 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; and

(2) the applicant has at least $300,000 of liability insurance for the tow truck.

(c) A tow truck permitted under this section may not be used for nonconsent towing, including incident management towing and private property towing.

Sec. 2308.106. DEPARTMENT APPROVAL; ISSUANCE OF PERMIT. (a) The department shall issue a permit under this subchapter to an applicant who meets the requirements for a permit. The department may deny an application if the applicant has had a permit revoked under this chapter.

(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.

Sec. 2308.107. PERMIT RENEWAL. (a) A permit issued under this chapter is valid for one year. The department may adopt a system under which permits expire at different times during the year.

(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 address according to the records of the department.

(c) A permit holder may renew a permit under this chapter by:

(1) paying a fee for each tow truck; and

(2) providing to the department evidence of continuing insurance or financial responsibility in an amount required by this chapter.

Sec. 2308.108. CAB CARDS. (a) The department shall issue a cab card for each tow truck issued a permit. The cab card must:

(1) show the permit number of the certificate issued under Section 2308.106(b);

(2) show the type of permit issued;

(3) show the vehicle unit number;

(4) show the vehicle identification number; and

(5) contain a statement that the vehicle has been issued a permit under this subchapter.

(b) The department shall issue a cab card when the department issues or renews a permit under this subchapter.

(c) A permit holder must keep the cab card in the cab of each permitted tow truck.

(d) The department may order a permit holder to surrender a cab card if the permit is suspended or revoked under this chapter.

(e) If the department determines that the cab card system described by Subsections (a) through (c) is not an efficient means of enforcing this subchapter, the executive director by rule may adopt an alternative method that is accessible by law enforcement personnel in the field and provides for the enforcement of the permit requirements of this subchapter.

(f) A cab card or a permit issued under the alternative method described in Subsection (e) must be valid for the same duration as a certificate issued under Section 2308.106.

Sec. 2308.109. DISPLAY OF INFORMATION ON TOW TRUCK. (a) A permit holder shall display on each permitted tow truck:

(1) the permit holder's name;

(2) the permit holder's telephone number;

(3) the city and state where the permit holder is located; and

(4) the permit number for the tow truck.

(b) The information required to be displayed must be:

(1) printed in letters and numbers that are at least two inches high and in a color that contrasts with the color of the background surface; and

(2) permanently affixed in conspicuous places on both sides of the tow truck.

Sec. 2308.110. FINANCIAL RESPONSIBILITY. (a) A permit holder shall maintain liability insurance for each tow truck according to the requirements under this subchapter.

(b) Unless state law permits a tow truck to be self-insured, any insurance required for a tow truck must be obtained from an insurer authorized to do business in this state.

(c) An applicant or permit holder must file with the department evidence of insurance as required by this subchapter.

(d) A permit holder shall keep evidence of insurance in a form approved by the department in the cab of each permitted tow truck.

[Sections 2308.111-2308.150 reserved for expansion]

SUBCHAPTER D. LICENSE REQUIREMENTS

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.

Sec. 2308.152. GENERAL LICENSE APPLICATION REQUIREMENTS. An applicant for a license under this subchapter must submit to the department:

(1) a completed application on a form prescribed by the executive director;

(2) the required fees; and

(3) any other information required by commission rule.

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) be a licensed Texas driver; and

(2) be certified by the National Drivers Certification

Program of the Towing and Recovery Association of America or another certification program approved by the department.

Sec. 2308.154. PRIVATE PROPERTY TOWING OPERATOR'S LICENSE. (a) A private property towing operator's license is required to operate a tow truck permitted under Section 2308.104.

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

(1) be a licensed Texas driver; and

(2) be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by the department.

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

(b) An applicant for a consent towing operator's license must be a licensed Texas driver.

Sec. 2308.156. NONTRANSFERABILITY OF LICENSE. A license issued by the executive director is valid throughout this state and is not transferable.

Sec. 2308.157. CONTINUING EDUCATION. (a) The commission by rule shall recognize, prepare, or administer continuing education programs for license holders. Except as provided by Subsection (c), each license holder must complete a continuing education program before the license holder may renew the license holder's license.

(b) A person recognized by the commission to offer a continuing education program must:

(1) register with the department; and

(2) comply with rules adopted by the commission relating to continuing education.

(c) To renew an incident management towing operator's

license the first time, a license holder must complete a professional development course relating to towing that is licensed or certified by the National Safety Council or another course approved and administered by the department under this section.

Sec. 2308.158. DRUG TESTING OF TOWING OPERATORS. (a) A towing company shall establish a drug testing policy for towing operators. A towing company that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted by the commission.

(b) The commission by rule shall adopt a model drug testing policy for use by a towing company. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. The model drug testing policy must:

(1) require at least one scheduled drug test each year for each towing operator; and

(2) authorize random, unannounced drug testing for towing operators.

Sec. 2308.159. LICENSE RENEWAL. (a) A license issued under this subchapter is valid for one year. The department may adopt a system under which licenses expire at different times during the year.

(b) The department shall notify the license holder at least 30 days before the date a license expires. The notice must be in writing and sent to the license holder's last known address according to the records of the department.

(c) A license holder may renew a license issued under this chapter by:

(1) paying a renewal fee; and

(2) completing continuing education as required by Section 2308.157.

ARTICLE 2. CONSOLIDATION OF LAWS RELATED TO TOWING

SECTION 2.01. Sections 643.201 and 643.203 through 643.208, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter E, Chapter 2308, Occupations Code, renumbered as Sections 2308.201 through 2308.207, Occupations Code, and amended to read as follows:

SUBCHAPTER E. LOCAL REGULATION OF TOWING

Sec. 2308.201 [~~643.201~~]. TOW TRUCK REGULATION BY POLITICAL SUBDIVISIONS. (a) A [~~In addition to the registration requirements of Subchapter B, a~~] political subdivision of this state may regulate the operation of a tow truck to the extent allowed by federal law, except that a political subdivision may not issue a more restrictive regulation for the use of lighting equipment on a tow truck than is imposed by Title 7, Transportation Code [~~this title~~].

(b) A political subdivision may not require the registration of a tow truck that performs consent tows in the political subdivision unless the owner of the tow truck has a place of business in the territory of the political subdivision.

(c) A political subdivision may require the registration of a tow truck that performs a nonconsent tow in the political subdivision, regardless of whether the owner of the tow truck has a place of business in the territory of the political subdivision.

(d) A political subdivision may not require a person who holds a driver's license or commercial driver's license to obtain a license or permit for operating a tow truck unless the person performs nonconsent tows in the territory of the political subdivision. A fee charged for a license or permit may not exceed

$15.

[~~(c) In this section:~~

[~~(1) "Commercial driver's license" has the meaning assigned by Section 522.003.~~

[~~(2) "Consent tow" means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.~~

[~~(3) "Driver's license" has the meaning assigned by Section 521.001.~~

[~~(4) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow.~~]

Sec. 2308.202 [~~643.203~~]. REGULATION BY POLITICAL SUBDIVISIONS OF FEES FOR NONCONSENT TOWS. The governing body of a political subdivision shall [~~may~~] regulate the fees that may be charged or collected in connection with a nonconsent tow originating in the territory of the political subdivision.

Sec. 2308.203 [~~643.204~~]. TOWING FEE STUDIES. (a) The governing body of a political subdivision that regulates nonconsent tow fees shall establish procedures by which a towing company may request that a towing fee study be performed.

(b) The governing body of the political subdivision shall establish or amend the allowable fees for nonconsent tows at amounts that represent the fair value of the services of a towing company and are reasonably related to any financial or accounting information provided to the governing body.

Sec. 2308.204 [~~643.205~~]. FEES FOR NONCONSENT TOWS IN OTHER AREAS. (a) In an area in which no political subdivision regulates the fees that may be charged or collected for a nonconsent tow from

private property, a towing company may charge and collect a fee for the tow of a motor vehicle from private property in an amount not to exceed an amount equal to 150 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.

(b) A towing company may charge and collect a fee for the tow of a vehicle, with a gross vehicle weight rating in excess of 26,000 pounds, from private property in an amount not to exceed an amount equal to 125 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.

Sec. 2308.205 [~~643.206~~]. STORAGE OF TOWED VEHICLES. (a) A towing company that makes a nonconsent tow shall tow the vehicle to a vehicle storage facility that is operated by a person who holds a license to operate the facility under Chapter 2303, [~~Occupations Code,~~] unless the towing company agrees to take the vehicle to a location designated by the vehicle's owner.

(b) A storage or notification fee imposed in connection with a motor vehicle towed to a vehicle storage facility is governed by Chapter 2303[~~, Occupations Code~~].

(c) Except as provided by this chapter, Article 18.23, Code of Criminal Procedure, or Chapter 2303[~~, Occupations Code~~], a fee may not be charged or collected without the prior written consent of the vehicle owner or operator.

Sec. 2308.206 [~~643.207~~]. REQUIRED FILING. (a) Before January 31 of each year, a towing company shall file with the department a schedule showing each towing fee that the towing company charges or collects in connection with a nonconsent tow.

(b) If a political subdivision begins regulating nonconsent

tow fees, the fees shall be reported to the department by the towing company before the 30th day after the regulation goes into effect.

(c) Any changes in nonconsent tow fees regulated by a political subdivision shall be reported to the department by the towing company before the 30th day after the effective date of the change.

(d) The department shall make towing fee schedules available on the department's Internet website. The department shall make no determination as to the reasonableness of a towing fee schedule.

(e) A license or permit holder may not charge a fee for a nonconsent tow that is greater than the fee listed in the schedule most recently submitted to the department under this section.

Sec. 2308.207 [~~643.208~~]. REQUIRED POSTING. (a) All [~~towing and~~] storage fees shall be posted at the licensed vehicle storage facility to which the motor vehicle has been delivered and shall be posted in view of the person who claims the vehicle.

(b) A vehicle storage facility accepting a nonconsent towed vehicle shall post a sign in one inch letters stating "Nonconsent tow fees schedules available on request." The vehicle storage facility shall provide a copy of a nonconsent towing fees schedule on request.

SECTION 2.02. Section 684.101, Transportation Code, is transferred to Subchapter E, Chapter 2308, Occupations Code, and renumbered as Section 2308.208, Occupations Code, to read as follows:

Sec. 2308.208 [~~684.101~~]. MUNICIPAL ORDINANCE REGULATING UNAUTHORIZED VEHICLES. A municipality may adopt an ordinance that is identical to this chapter or that imposes additional requirements that exceed the minimum standards of this chapter but may not adopt an ordinance conflicting with this chapter.

SECTION 2.03. Sections 684.011, 684.012, 684.0125, 684.013, 684.014, and 684.015, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter F, Chapter 2308, Transportation Code, renumbered as Sections 2308.251 through 2308.256, Occupations Code, and amended to read as follows:

SUBCHAPTER F. UNAUTHORIZED VEHICLES

Sec. 2308.251 [~~684.011~~]. PROHIBITION AGAINST UNATTENDED VEHICLES IN CERTAIN AREAS. (a) The owner or operator of a vehicle may not 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;

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

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

(4) does not display the special license plates issued under Section 504.201, Transportation Code, or the disabled parking placard issued under Chapter 681, Transportation Code, for a vehicle transporting a disabled person and is in a parking space that is designated for the exclusive use of a vehicle transporting a disabled person.

(b) Subsection (a) does not apply to an emergency vehicle that is owned by, or the operation of which is authorized by, a governmental entity.

(c) If a government regulation governing the marking of a fire lane applies to a parking facility, a fire lane in the facility must be marked as provided by the regulation. If a government regulation on the marking of a fire lane does not apply to the parking facility, all curbs of fire lanes must be painted red and be conspicuously and legibly marked with the warning "FIRE LANE--TOW

AWAY ZONE" in white letters at least three inches tall, at intervals not exceeding 50 feet.

Sec. 2308.252 [~~684.012~~]. REMOVAL AND STORAGE OF UNAUTHORIZED VEHICLE. (a) A parking facility owner may, without the consent of the owner or operator of an unauthorized vehicle, cause the vehicle and any property on or in the vehicle to be removed and stored at a vehicle storage facility at the vehicle owner's or operator's expense if:

(1) signs that comply with Subchapter G [~~C~~] prohibiting unauthorized vehicles are located on the parking facility at the time of towing and for the preceding 24 hours and remain installed at the time of towing;

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

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

(4) the vehicle is:

(A) left in violation of Section 2308.251 [~~684.011~~] or 2308.253 [~~684.0125~~]; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility [~~and the removal is approved by a peace officer~~].

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

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

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

(B) a description of all other unauthorized areas in the parking facility;

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

(D) a telephone number that is answered 24 hours a day to enable the owner or operator of the vehicle to locate the vehicle; and

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

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

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

(2) describe all other unauthorized areas in the parking facility;

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

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

(d) The mailing of a notice under Subsection (b)(2) is not required if after the notice is attached under Subsection (b)(1) the owner or operator of the vehicle leaves the vehicle in another location where parking is unauthorized for the vehicle according to the notice.

Sec. 2308.253 [~~684.0125~~]. UNATTENDED VEHICLES ON PARKING FACILITY OF APARTMENT COMPLEX; REMOVAL AND STORAGE OF VEHICLES. (a) This section applies only to a parking facility serving or adjacent to an apartment complex consisting of one or more residential apartment units and any adjacent real property serving the apartment complex.

(b) The owner or operator of a vehicle may not leave unattended on a parking facility a vehicle that:

(1) obstructs a gate that is designed or intended for the use of pedestrians or vehicles;

(2) obstructs pedestrian or vehicular access to an area that is used for the placement of a garbage or refuse receptacle used in common by residents of the apartment complex;

(3) is in or obstructs a restricted parking area or parking space designated under Subchapter G [~~C~~], including a space designated for the use of employees or maintenance personnel of the parking facility or apartment complex;

(4) is in a tow away zone, other than a fire lane covered by Section 2308.251(c) [~~684.011(c)~~], that is brightly painted and is conspicuously and legibly marked with the warning "TOW AWAY ZONE" in contrasting letters at least three inches tall;

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

(6) is leaking a fluid that presents a hazard or threat to persons or property.

(c) A parking facility owner may not have an emergency vehicle described by Section 2308.251(b) [~~684.011(b)~~] removed from the parking facility.

(d) Except as provided by a contract described by Subsection (e), a parking facility owner may not have a vehicle removed from the parking facility merely because the vehicle does not display:

(1) 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; or

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

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

(1) delivered in person to the owner or operator of the vehicle; or

(2) sent by certified mail, return receipt requested, to that owner or operator.

(f) This section may not be construed:

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

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

(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.

Sec. 2308.254 [~~684.013~~]. LIMITATION ON PARKING FACILITY OWNER'S AUTHORITY TO REMOVE UNAUTHORIZED VEHICLE. A parking facility owner may not have an unauthorized vehicle removed from the facility except:

(1) as provided by this chapter or a municipal ordinance that complies with Section 2308.208 [~~684.101~~]; or

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

Sec. 2308.255 [~~684.014~~]. TOWING COMPANY'S AUTHORITY TO REMOVE AND STORE UNAUTHORIZED VEHICLE. (a) A towing company that is insured as provided by Subsection (c) may, without the consent of an owner or operator of an unauthorized vehicle, remove and store the vehicle at a vehicle storage facility at the expense of the owner or operator of the vehicle if:

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

(A) the parking facility owner has installed the signs required by Section 2308.252(a)(1) [~~684.012(a)(1)~~]; or

(B) the owner or operator received notice under Section 2308.252(a)(2) [~~684.012(a)(2)~~] or the parking facility owner gave notice complying with Section 2308.252(a)(3) [~~684.012(a)(3)~~]; or

(2) the vehicle is:

(A) left in violation of Section 2308.251 [~~684.011~~]; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility and the removal is approved by a peace officer.

(b) A towing company may not remove an unauthorized vehicle except under:

(1) this chapter;

(2) a municipal ordinance that complies with Section 2308.208 [~~684.101~~]; or

(3) the direction of a peace officer or the owner or operator of the vehicle.

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

(d) A towing company may remove and store a vehicle under Subsection (a) only if the parking facility owner:

(1) requests that the towing company remove and store the specific vehicle; or

(2) has a standing written agreement with the towing company to enforce parking restrictions in the parking facility from which the vehicle will be removed.

Sec. 2308.256 [~~684.015~~]. VEHICLE STORAGE FACILITY'S DUTY TO REPORT AFTER ACCEPTING UNAUTHORIZED VEHICLE. (a) A vehicle storage facility accepting a vehicle that is towed under this chapter shall within two hours after receiving the vehicle report to the police department of the municipality in which the parking facility is located, or, if the parking facility is not located in a municipality having a police department, to the sheriff of the county in which the parking facility is located:

(1) a general description of the vehicle;

(2) the state and number of the vehicle's license plate, if any;

(3) the vehicle identification number of the vehicle, if it can be ascertained;

(4) the location from which the vehicle was towed; and

(5) the name and location of the vehicle storage facility where the vehicle is being stored.

(b) The report required by this section must be made by telephone or delivered personally or by facsimile.

SECTION 2.04. Subchapter C, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter G, Chapter 2308, Occupations Code, and Sections 684.031 through 684.035, Transportation Code, are renumbered as Sections 2308.301 through 2308.305, Occupations Code, and amended to read as follows:

SUBCHAPTER G [~~C~~]. SIGNS PROHIBITING UNAUTHORIZED VEHICLES AND DESIGNATING RESTRICTED AREAS

Sec. 2308.301 [~~684.031~~]. GENERAL REQUIREMENTS FOR SIGN PROHIBITING UNAUTHORIZED VEHICLES. (a) Except as provided by Subsection (a)(2)(B) and Section 2308.304 [~~684.034~~] or 2308.305 [~~684.035~~] an unauthorized vehicle may not be towed under Section 2308.252(a)(1) [~~684.012(a)(1)~~] unless a sign prohibiting unauthorized vehicles on a parking facility is:

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

(2) located:

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

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

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

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

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

(4) installed on the parking facility; and

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

(b) Except as provided by Section 2308.305 [~~684.035~~], an unauthorized vehicle may be towed under Section 2308.252(a)(1) [~~684.012(a)(1)~~] 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 "Unauthorized Vehicles Will Be Towed at Owner's or Operator's Expense";

(6) contains a statement of the days and hours of towing 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 the vehicle.

Sec. 2308.302 [~~684.032~~]. COLOR, LAYOUT, AND LETTERING HEIGHT REQUIREMENTS. (a) Except as provided by Section 2308.305 [~~684.035~~], each sign required by this chapter must comply with the color, layout, and lettering height requirements of this section.

(b) A bright red international towing symbol, which is a solid silhouette of a tow truck towing a vehicle on a generally rectangular white background, at least four inches in height, must be on the uppermost portion of a sign or on a separate sign placed immediately above the sign.

(c) The portion of the sign immediately below the

international towing symbol must contain the words "Towing Enforced" or the information provided by Section 2308.301(b)(4) [~~684.031(b)(4)~~] in lettering at least two inches in height. The lettering on this portion of the sign must consist of white letters on a bright red background.

(d) Except as provided by Subsection (e), the next lower portion of the sign must contain the remaining information required by Section 2308.301(b) [~~684.031(b)~~] displayed in bright red letters at least one inch in height on a white background.

(e) The bottommost portion of the sign must contain the telephone number required by Section 2308.301(b) [~~684.031(b)~~], in lettering at least one inch in height and may, if the facility owner chooses or if an applicable municipal ordinance requires, include the name and address of the storage facility to which an unauthorized vehicle will be removed. The lettering on this portion of the sign must consist of white letters on a bright red background.

Sec. 2308.303 [~~684.033~~]. TELEPHONE NUMBER FOR LOCATING TOWED VEHICLE REQUIRED. If a parking facility owner posts a sign described by Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~], the owner of a vehicle that is towed from the facility under this chapter must be able to locate the vehicle by calling the telephone number on the sign.

Sec. 2308.304 [~~684.034~~]. DESIGNATION OF RESTRICTED PARKING SPACES ON OTHERWISE UNRESTRICTED PARKING FACILITY. A parking facility owner may designate one or more spaces as restricted parking spaces on a portion of an otherwise unrestricted parking facility. Instead of installing a sign at each entrance to the parking facility as provided by Section 2308.301(a)(2) [~~684.031(a)(2)~~], an owner may place a sign that prohibits unauthorized vehicles from parking in designated spaces and that

otherwise complies with Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~]:

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

(2) at the end of a restricted parking space so that the sign, the top of which must not be higher than seven feet above the ground, is in front of a vehicle that is parked in the space and the rear of which is at the entrance of the space.

Sec. 2308.305 [~~684.035~~]. INDIVIDUAL PARKING RESTRICTIONS IN RESTRICTED AREA. (a) A parking facility owner who complies with Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~] may impose further specific parking restrictions in an area to which the signs apply for individual spaces by installing or painting a weather-resistant sign or notice on a curb, pole, post, permanent wall, or permanent barrier so that the sign is in front of a vehicle that is parked in the space and the rear of which is at the entrance of the space.

(b) The top of the sign or notice may not be higher than seven feet above the ground.

(c) The sign or notice must include an indication that the space is reserved for a particular unit number, person, or type of person.

(d) The letters on the sign or notice must be at least two inches in height and must contrast to the color of the curb, wall, or barrier so they can be read during the day and at night. The letters are not required to be illuminated or made of reflective material.

SECTION 2.05. Subchapter D, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter H, Chapter 2308, Occupations Code, and

Sections 684.051 through 684.054, Transportation Code, are renumbered as Sections 2308.351 through 2308.354, Occupations Code, and amended to read as follows:

SUBCHAPTER H [~~D~~]. REGULATION OF PARKING ON CERTAIN PUBLIC ROADWAY AREAS

Sec. 2308.351 [~~684.051~~]. REMOVAL OF UNAUTHORIZED VEHICLE FROM LEASED RIGHT-OF-WAY. Unless prohibited by the lease, a parking facility owner or towing company may remove an unauthorized vehicle parked in a leased area described by Section 2308.002(7)(B)(i) [~~684.001(1)(B)(i)~~] if the owner or towing company gives notice under Section 2308.252(a)(1), (2), or (3) [~~684.012(a)(1), (2), or (3)~~] and otherwise complies with this chapter.

Sec. 2308.352 [~~684.052~~]. REMOVAL OF UNAUTHORIZED VEHICLE FROM AREA BETWEEN PARKING FACILITY AND PUBLIC ROADWAY. Unless prohibited by a municipal ordinance, a parking facility owner or towing company may remove an unauthorized vehicle any part of which is in an area described by Section 2308.002(7)(B)(ii) [~~684.001(1)(B)(ii)~~] if notice provided by Section 2308.252(a)(2) or (3) [~~684.012(a)(2) or (3)~~] is given and the owner or towing company has otherwise complied with this chapter.

Sec. 2308.353 [~~684.053~~]. REMOVAL UNDER GOVERNMENTAL ENTITY'S AUTHORITY OF UNAUTHORIZED VEHICLE PARKED IN RIGHT-OF-WAY. (a) A governmental entity that has jurisdiction over a public roadway and that has posted one or more signs in the right-of-way stating that parking is prohibited in the right-of-way may:

(1) remove or contract with a towing company to remove an unauthorized vehicle parked in the right-of-way of the public roadway; or

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

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

(B) remove vehicles from the right-of-way of the public roadway under this chapter.

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

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

(2) be placed facing the public roadway:

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

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

(3) in all other respects comply with Subchapter G [~~C~~].

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

Sec. 2308.354 [~~684.054~~]. AUTHORITY FOR REMOVAL OF VEHICLE FROM PUBLIC ROADWAY. (a) Under an ordinance of a municipality regulating the parking of vehicles in the municipality, to aid in the enforcement of the ordinance, an employee designated by the municipality may be authorized to:

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

(2) remove an immobilized vehicle from a public roadway in the municipality.

(b) A parking facility owner or towing company may not remove a vehicle from a public roadway except under:

(1) this chapter or a municipal ordinance that complies with Section 2308.208 [~~684.101~~]; or

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

SECTION 2.06. Subchapter E, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter I, Chapter 2308, Occupations Code, and Sections 684.081 through 684.087, Transportation Code, are renumbered as Sections 2308.401 through 2308.407, Occupations Code, to read as follows:

SUBCHAPTER I [~~E~~]. REGULATION OF TOWING COMPANIES AND PARKING FACILITY OWNERS

Sec. 2308.401 [~~684.081~~]. PARKING FACILITY OWNER PROHIBITED FROM RECEIVING FINANCIAL GAIN FROM TOWING COMPANY. (a) A parking facility owner may not directly or indirectly accept anything of value from a towing company in connection with the removal of a vehicle from a parking facility.

(b) A parking facility owner may not have a direct or indirect monetary interest in a towing company that for compensation removes unauthorized vehicles from a parking facility in which the parking facility owner has an interest.

Sec. 2308.402 [~~684.082~~]. TOWING COMPANY PROHIBITED FROM FINANCIAL INVOLVEMENT WITH PARKING FACILITY OWNER. (a) A towing company may not directly or indirectly give anything of value to a parking facility owner in connection with the removal of a vehicle from a parking facility.

(b) A towing company may not have a direct or indirect monetary interest in a parking facility from which the towing company for compensation removes unauthorized vehicles.

Sec. 2308.403 [~~684.083~~]. LIMITATION ON LIABILITY OF PARKING FACILITY OWNER FOR REMOVAL OR STORAGE OF UNAUTHORIZED VEHICLE. A

parking facility owner who causes the removal of an unauthorized vehicle is not liable for damages arising from the removal or storage of the vehicle if the vehicle:

(1) was removed in compliance with this chapter; and

(2) is:

(A) removed by a towing company insured against liability for property damage incurred in towing a vehicle; and

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

Sec. 2308.404 [~~684.084~~]. CIVIL LIABILITY OF TOWING COMPANY OR PARKING FACILITY OWNER FOR VIOLATION OF CHAPTER. (a) A towing company or parking facility owner who violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for:

(1) damages arising from the removal or storage of the vehicle; and

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

(b) A vehicle's owner or operator is not required to prove negligence of a parking facility owner or towing company to recover under Subsection (a).

(c) A towing 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 $300 plus three times the amount of fees assessed in the vehicle's removal, towing, or storage.

(d) In a suit brought under this chapter, the prevailing party is entitled to recover reasonable attorney's fees.

Sec. 2308.405 [~~684.085~~]. VIOLATION OF CHAPTER; FINE. A violation of this chapter is a misdemeanor punishable by a fine of

not less than $500 or more than $1,500.

Sec. 2308.406 [~~684.086~~]. VIOLATION OF CHAPTER; INJUNCTION. A violation of this chapter may be enjoined under Subchapter E, Chapter 17, Business & Commerce Code.

Sec. 2308.407 [~~684.087~~]. MINOR SIGN OR LETTERING HEIGHT VARIATIONS. A minor variation of a required or minimum height of a sign or lettering is not a violation of this chapter.

SECTION 2.07. Sections 685.002 through 685.010, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter J, Chapter 2308, Occupations Code, renumbered as Sections 2308.451 through 2308.459, Occupations Code, and amended to read as follows:

SUBCHAPTER J. RIGHTS OF OWNERS AND OPERATORS OF STORED VEHICLES

Sec. 2308.451 [~~685.002~~]. PAYMENT OF COST OF REMOVAL AND STORAGE OF VEHICLE. (a) If in a hearing held under this chapter the court finds that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person who requested the hearing shall pay the costs of the removal and storage.

(b) If in a hearing held under this chapter the court does not find that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person or law enforcement agency that authorized the removal shall:

(1) pay the costs of the removal and storage; or

(2) reimburse the owner or operator for the cost of the removal and storage paid by the owner or operator.

Sec. 2308.452 [~~685.003~~]. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO HEARING. The owner or operator of a vehicle that has been removed and placed in a vehicle storage facility without the consent of the owner or operator of the vehicle is entitled to a

hearing on whether probable cause existed for the removal and placement.

Sec. 2308.453 [~~685.004~~]. JURISDICTION. A hearing under this chapter shall be in the justice court having jurisdiction in the precinct in which the vehicle storage facility is located.

Sec. 2308.454 [~~685.005~~]. NOTICE TO VEHICLE OWNER OR OPERATOR. (a) If before a hearing held under this chapter the owner or operator of a vehicle pays the costs of the vehicle's 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 chapter.

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

Sec. 2308.455 [~~685.006~~]. CONTENTS OF NOTICE. The notice under Section 2308.454 [~~685.005~~] must include:

(1) a statement of:

(A) the person's right to submit a request within 14 days for a court hearing to determine whether probable cause existed to remove the vehicle;

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

(C) any filing fee for the hearing;

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

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

(4) the name, address, and telephone number of the person, property owner, or law enforcement agency that authorized

the removal of the vehicle; and

(5) the name, address, and telephone number of the justice court having jurisdiction in the precinct in which the vehicle storage facility is located.

Sec. 2308.456 [~~685.007~~]. REQUEST FOR HEARING. (a) Except as provided by Subsection (c), a person entitled to a hearing under this chapter must deliver a written request for the hearing to the court before the 14th day after the date the vehicle was removed and placed in the vehicle storage facility, excluding Saturdays, Sundays, and legal holidays.

(b) A request for a hearing must contain:

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

(2) the location from which the vehicle was removed;

(3) the date when the vehicle was removed;

(4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal;

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

(6) the name, address, and telephone number of the towing company that removed the vehicle;

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

(8) if the vehicle was removed from a parking facility:

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

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

(c) If notice was not given under Section 2308.454 [~~685.005~~], the 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.

(d) A person who fails to deliver a request in accordance with Subsection (a) waives the right to a hearing.

Sec. 2308.457 [~~685.008~~]. FILING FEE AUTHORIZED. The court may charge a filing fee of $20 for a hearing under this chapter.

Sec. 2308.458 [~~685.009~~]. HEARING. (a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing.

(b) The court shall notify the person who requested the hearing, [~~and~~] the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure [~~by registered or certified mail~~]. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.

(b-1) At a hearing under this section:

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

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

(c) The issues in a hearing 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 [~~643.201~~] or 2308.202 [~~643.203~~];

(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 [~~643.204~~] or 2308.204 [~~643.205~~]; or

(4) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount filed with the department under Section 2308.206 [~~643.207~~].

(d) The court shall make written findings of fact and a conclusion of law.

(e) The court may award:

(1) court costs to the prevailing party;

(2) the reasonable cost of photographs submitted under Section 2308.456(b)(8) [~~685.007(b)(8)~~] to a vehicle owner or operator who is the prevailing party; [~~and~~]

(3) an amount equal to the amount that the towing charge exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303; and

(4) reimbursement of fees paid for vehicle towing and storage [~~, Occupations Code~~].

Sec. 2308.459 [~~685.010~~]. APPEAL. An appeal from a hearing under this chapter is governed by the rules of procedure applicable to civil cases in justice court, except that no appeal bond may be required by the court.

SECTION 2.08. Subchapter J, Chapter 2308, Occupations Code, as added by this Act, is amended by adding Section 2308.460 to read as follows:

Sec. 2308.460. ENFORCEMENT OF AWARD. An award under this chapter may be enforced by any means available for the enforcement of a judgment for a debt.

SECTION 2.09. Chapter 2308, Occupations Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. ENFORCEMENT

Sec. 2308.501. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates:

(1) this chapter or a rule adopted under this chapter; or

(2) a rule or order of the executive director or commission.

(b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 2308.502. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

Sec. 2308.503. SANCTIONS. The department may impose sanctions as provided by Section 51.353.

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

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

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

(3) employs an individual who does not hold the appropriate license required by this chapter; or

(4) falsifies a certification or training.

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

SECTION 2.10. Section 643.253(d), Transportation Code, is transferred to Subchapter K, Chapter 2308, Occupations Code, renumbered as Section 2308.505, Occupations Code, and amended to read as follows:

Sec. 2308.505. CRIMINAL PENALTY; TOWING. (a) [~~(d)~~] 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 [~~643.201~~] or 2308.202 [~~643.203~~], 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 [~~643.201~~] or 2308.202 [~~643.203~~] 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 [~~643.205~~];

(4) charges or collects a fee in excess of the amount filed with the department under Section 2308.206 [~~643.207~~];

(5) violates Section 2308.205 [~~643.206~~]; or

(6) violates a rule of the department applicable to a tow truck and towing company.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $200 or more than $1,000 per violation.

ARTICLE 3. CONFORMING AMENDMENTS

SECTION 3.01. Article 18.23(e), Code of Criminal Procedure, is amended to read as follows:

(e) Subchapter J, Chapter 2308, Occupations Code [~~Chapter 685, Transportation Code~~], does not apply to a motor vehicle directed by a law enforcement agency to be towed and stored for an evidentiary or examination purpose.

SECTION 3.02. Section 101.141(a), Government Code, is amended to read as follows:

(a) A clerk of a justice court shall collect fees and costs as follows:

(1) additional court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the commissioners court of a county with a population of at least 2.5 million (Sec. 152.005, Civil Practice and Remedies Code) . . . not to exceed $3;

(2) additional filing fees:

(A) to fund Dallas County civil court facilities (Sec. 51.705, Government Code) . . . not more than $15; and

(B) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $2;

(3) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . $1.50;

(4) fee for hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 2308.457, Occupations Code [~~685.008, Transportation Code~~]) . . . $20;

(5) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec.

14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(6) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid;

(7) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding; and

(8) the cost of a special program that a court may order a child to attend after a finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed $100.

SECTION 3.03. Section 101.161, Government Code, is amended to read as follows:

Sec. 101.161. MUNICIPAL COURT FEES AND COSTS. The clerk of a municipal court shall collect:

(1) a fee for a hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 2308.457, Occupations Code [~~685.008, Transportation Code~~]) . . . $20; and

(2) the cost of a special program that a court may order a child to attend after finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed $100.

SECTION 3.04. Section 2303.155(f), Occupations Code, is amended to read as follows:

(f) The operator of a vehicle storage facility or governmental vehicle storage facility may not charge an additional fee related to the storage of a vehicle other than a fee authorized by this section or a towing fee authorized by Chapter 2308 [~~Chapter 643, Transportation Code~~].

SECTION 3.05. Section 504.508(c), Transportation Code, is amended to read as follows:

(c) Proof of eligibility for license plates under this section must include a copy of the permit [~~registration~~] certificate issued by the Texas Department of Licensing and Regulation [~~department~~] for the tow truck.

SECTION 3.06. Section 643.002, Transportation Code, is amended to read as follows:

Sec. 643.002. EXEMPTIONS. This chapter does not apply to:

(1) a motor vehicle registered under the single state registration system established under 49 U.S.C. Section 14504(c) when operating exclusively in interstate or international commerce;

(2) a motor vehicle registered as a cotton vehicle

under Section 502.277;

(3) a motor vehicle the department by rule exempts because the vehicle is subject to comparable registration and a comparable safety program administered by another governmental entity;

(4) a motor vehicle used to transport passengers operated by an entity whose primary function is not the transportation of passengers, such as a vehicle operated by a hotel, day-care center, public or private school, nursing home, or similar organization;

(5) a vehicle operating under a private carrier permit issued under Chapter 42, Alcoholic Beverage Code; [~~or~~]

(6) a vehicle operated by a governmental entity; or

(7) a tow truck, as defined by Section 2308.002, Occupations Code.

SECTION 3.07. Section 643.051(a), Transportation Code, is amended to read as follows:

(a) A motor carrier may not operate a commercial motor vehicle, as defined by Section 548.001, [~~or a tow truck~~] on a road or highway of this state unless the carrier registers with the department under this subchapter.

SECTION 3.08. Section 643.053, Transportation Code, is amended to read as follows:

Sec. 643.053. FILING OF APPLICATION. An application under Section 643.052 must be filed with the department and accompanied by:

(1) an application fee of $100 plus a $10 fee for each vehicle requiring registration [~~other than a tow truck or a $25 fee for each tow truck the motor carrier proposes to operate~~];

(2) evidence of insurance or financial responsibility as required by Section 643.103(a); and

(3) any insurance filing fee required under Section 643.103(c).

SECTION 3.09. Sections 643.057(a) and (d), Transportation Code, are amended to read as follows:

(a) A motor carrier may not operate an additional vehicle requiring registration unless the carrier pays a registration fee of $10 for each additional vehicle [~~other than a tow truck or $25 for each tow truck~~] and shows the department evidence of insurance or financial responsibility for the vehicle in an amount at least equal to the amount set by the department under Section 643.101.

(d) The department may not collect more than $10 in equipment registration fees for a vehicle [~~other than a tow truck~~] registered under both this subchapter and Chapter 645 [~~or more than $25 if the vehicle is a tow truck~~].

SECTION 3.10. Section 643.058(c), Transportation Code, is amended to read as follows:

(c) A motor carrier may renew a registration under this subchapter by:

(1) supplementing the application with any new information required under Section 643.056;

(2) paying a $10 fee for each vehicle requiring registration [~~other than a tow truck or a fee of $25 for each tow truck the carrier operates~~]; and

(3) providing the department evidence of continuing insurance or financial responsibility in an amount at least equal to the amount set by the department under Section 643.101.

SECTION 3.11. Section 643.061(b), Transportation Code, is amended to read as follows:

(b) A motor carrier applying for registration under this section must pay:

(1) a $20 fee for each vehicle registered [~~other than a~~

~~tow truck or a fee of $50 for each tow truck~~] under Subsection (a)(1);

(2) a $10 fee for each vehicle registered [~~other than a tow truck or a fee of $25 for each tow truck~~] under Subsection (a)(2); and

(3) application and insurance filing fees the department by rule adopts in an amount not to exceed $100 each.

SECTION 3.12. Section 643.253(e), Transportation Code, is amended to read as follows:

(e) An offense under Subsection (b) [~~or (d)~~] is a misdemeanor punishable by a fine of not less than $200 or more than $1,000 per violation.

SECTION 3.13. Section 1(1), Chapter 528, Acts of the 76th Legislature, Regular Session, 1999 (Article 178d-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) "Parking facility," "parking facility owner," and "vehicle" have the meanings assigned by Section 2308.002, Occupations Code [~~684.001, Transportation Code~~].

ARTICLE 4. TRANSITION AND EFFECTIVE DATE

SECTION 4.01. (a) The following provisions of the Transportation Code are repealed:

(1) Section 643.001(7);

(2) Section 643.101(d);

(3) Section 643.202;

(4) Section 684.001;

(5) Section 685.001;

(6) the heading to Subchapter E, Chapter 643;

(7) the heading to Chapter 684;

(8) the headings to Subchapters A, B, and F, Chapter 684; and

(9) the heading to Chapter 685.

(b) Subchapters E and F, Chapter 2303, Occupations Code, are repealed.

SECTION 4.02. As soon as practicable after the effective date of this Act, the presiding officer of the Texas Commission of Licensing and Regulation shall make the initial appointments to the Towing and Storage Advisory Board. The presiding officer shall appoint two members to terms expiring February 1, 2009, three members to terms expiring February 1, 2011, and three members to terms expiring February 1, 2013.

SECTION 4.03. (a) As soon as practicable after the effective date of this Act, the Texas Department of Transportation and the Texas Department of Licensing and Regulation shall develop and enter into a memorandum of understanding regarding the transfer described in this section that includes a transition plan for transferring the functions performed by the Texas Transportation Commission and the Texas Department of Transportation that relate to tow trucks, towing operations, or vehicle storage facilities to the Texas Department of Licensing and Regulation. The transition plan must include a timetable with specific steps and deadlines needed to complete the transfer, and may include provisions for the extension of expiration dates for licenses.

(b) In accordance with the transition plan developed by the Texas Department of Transportation and the Texas Department of Licensing and Regulation under Subsection (a) of this section, on January 1, 2008:

(1) all functions and activities performed by the Texas Transportation Commission and the Texas Department of Transportation relating to tow trucks, towing operations, or vehicle storage facilities immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Transportation

Commission and the Texas Department of Transportation that relates to tow trucks, towing operations, or vehicle storage facilities is a rule or form of the Texas Commission of Licensing and Regulation or the Texas Department of Licensing and Regulation, as applicable, and remains in effect until amended or replaced by that commission or department;

(3) a reference in law to or an administrative rule of the Texas Transportation Commission and the Texas Department of Transportation that relates to tow trucks, towing operations, or vehicle storage facilities means the Texas Commission of Licensing and Regulation or the Texas Department of Licensing and Regulation, as applicable;

(4) a complaint, investigation, or other proceeding before the Texas Transportation Commission or the Texas Department of Transportation that is related to tow trucks, towing operations, or vehicle storage facilities is transferred without change in status to the Texas Department of Licensing and Regulation, and the Texas Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Transportation Commission and the Texas Department of Transportation in an action or proceeding to which the Texas Transportation Commission or the Texas Department of Transportation is a party;

(5) all full-time equivalent employee positions at the Texas Department of Transportation that primarily concern the administration of tow trucks, towing operations, or vehicle storage facilities become positions at the Texas Department of Licensing and Regulation, and when filling the positions, the Texas Department of Licensing and Regulation shall give first consideration to an applicant who, as of December 31, 2007, was a full-time employee at the Texas Department of Transportation

primarily involved in administering tow trucks, towing operations, or vehicle storage facilities;

(6) all money, contracts, leases, property, and obligations of the Texas Department of Transportation related to the regulation of tow trucks, towing operations, or vehicle storage facilities are transferred to the Texas Department of Licensing and Regulation;

(7) all property in the custody of the Texas Department of Transportation related to tow trucks, towing operations, or vehicle storage facilities is transferred to the Texas Department of Licensing and Regulation; and

(8) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Transportation Commission and the Texas Department of Transportation related to tow trucks, towing operations, or vehicle storage facilities is transferred to the Texas Department of Licensing and Regulation.

(c) Before January 1, 2008, the Texas Department of Transportation may agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Department of Transportation to the Texas Department of Licensing and Regulation to implement the transfer required by this Act.

(d) In the period beginning with the effective date of this Act and ending on December 31, 2007, the Texas Transportation Commission and the Texas Department of Transportation shall continue to perform functions and activities under Chapter 2303, Occupations Code, and those portions of Chapters 643 and 684, Transportation Code, that relate to tow trucks, towing operations, or vehicle storage facilities, as if those laws were not amended by this Act, and the former law is continued in effect for that purpose.

SECTION 4.04. Not later than April 1, 2008, the Texas

Commission of Licensing and Regulation shall adopt rules relating to an original application for a permit or license under Chapter 2303, Occupations Code, as amended by this Act, and Chapter 2308, Occupations Code, as added by this Act.

SECTION 4.05. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2007.

(b) Section 2308.504, Occupations Code, as added by this Act, and Subchapters C and D, Chapter 2308, Occupations Code, as added by this Act, take effect September 1, 2008.

ADOPTED

MAY 22 2007

Secretary of the Senate

FLOOR AMENDMENT NO. 2 to F.A. 1 BY: Jane Nelson

Amend H.B. 2094 by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. Section 2303.155, Occupations Code, is amended by amending Subsection (b) and adding Subsection (h) to read as follows:

(b) Except as provided by Subsection (h), the [~~The~~] operator of a vehicle storage facility or governmental vehicle storage facility may charge the owner of a vehicle stored or parked at the facility:

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

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

(A) is taken by or at the direction of the owner 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) $35 for each day or part of a day the vehicle is stored at the facility if the vehicle is longer than 25 feet; and

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

(h) The operator of a vehicle storage facility or

1 governmental vehicle storage facility may not charge a fee under
2 Subsection (b) to the owner of a vehicle stored or parked at the
3 facility as a result of recovery of the vehicle after being
4 stolen if the vehicle owner provides the operator with a copy of
5 the police report or similar report prepared by any law
6 enforcement agency showing that the vehicle was reported stolen.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 17, 2007

TO: Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2094** by Hill (Relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Transportation Code to require a court to notify the vehicle storage facility in which a vehicle was placed of the date, time, and place of a hearing regarding the removal of the vehicle. The notification would be in addition to the notification required under current statute to notify the person who requested the hearing and the person or law enforcement agency that authorized removal of the vehicle.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:
LBB Staff: JOB, KJG, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 11, 2007

TO: Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2094** by Hill (Relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Transportation Code to require a court to notify the vehicle storage facility in which a vehicle was placed of the date, time, and place of a hearing regarding the removal of the vehicle. The notification would be in addition to the notification required under current statute to notify the person who requested the hearing and the person or law enforcement agency that authorized removal of the vehicle.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:
LBB Staff: JOB, KJG, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 15, 2007

TO: Honorable Mike Krusee, Chair, House Committee on Transportation

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2094** by Hill (Relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Transportation Code to require a court to notify the vehicle storage facility in which a vehicle was placed of the date, time, and place of a hearing regarding the removal of the vehicle. The notification would be in addition to the notification required under current statute to notify the person who requested the hearing and the person or law enforcement agency that authorized removal of the vehicle.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:
LBB Staff: JOB, KJG, DB

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 26, 2007

Date

ADOPTED

MAY 28 2007

Chief Clerk
House of Representatives

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 2094 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Senator John Carona, Chair	Representative Fred Hill, Chair
Senator Craig Eaton	Representative Joseph "Joe" Deshotel
Senator Rodney Ellis	Representative Jim Jackson
Senator Jeff Wentworth	Representative Mike Krusee
On the part of the Senate Senator John Whitmire	On the part of the House Representative Larry Phillips

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

H.B. No. 2094

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the towing and storage of vehicles.

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

ARTICLE 1. LICENSING AND REGULATION OF TOWING AND VEHICLE STORAGE

SECTION 1.01. Sections 2303.002(2), (3), and (4), Occupations Code, are amended to read as follows:

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

(3) "Department" means the Texas Department of Licensing and Regulation [~~Transportation~~].

(4) "Executive director [~~Director~~]" means the executive director of the department [~~or a person designated by the executive director who is not below the rank of division or special office director~~].

SECTION 1.02. Section 2303.051, Occupations Code, is amended to read as follows:

Sec. 2303.051. RULEMAKING: LICENSE REQUIREMENTS[~~; SANCTIONS~~]. The commission shall adopt rules that:

(1) establish the requirements for a person to be licensed to operate a vehicle storage facility to ensure that the facility maintains adequate standards for the care of stored vehicles; [~~and~~]

(2) relate to the administrative sanctions that may be imposed on a person licensed under this chapter;

(3) govern the administration of this chapter.

SECTION 1.03. Subchapter B, Chapter 2303, Occupations Code, is amended by adding Sections 2303.055, 2303.056, 2303.057, and 2303.058 to read as follows:

Sec. 2303.055. EXAMINATION OF CRIMINAL CONVICTION. The department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.

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.

Sec. 2303.057. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter.

Sec. 2303.058. ADVISORY BOARD. The Towing and Storage Advisory Board under Chapter 2308 shall advise the commission in adopting vehicle storage rules under this chapter.

SECTION 1.04. The heading to Section 2303.101, Occupations Code, is amended to read as follows:

Sec. 2303.101. FACILITY LICENSE REQUIRED.

SECTION 1.05. Subchapter C, Chapter 2303, Occupations Code, is amended by adding Section 2303.1015 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.

(b) The commission shall adopt rules governing the application for and issuance of a license under this section.

SECTION 1.06. Sections 2303.102(a) and (b), Occupations Code, are amended to read as follows:

(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 executive director.

(b) The rules adopted [~~by the commission~~] under this section must require an [~~the~~] application for a facility license [~~to be made under oath and~~] to list:

(1) the name and address of each partner, if the applicant is a partnership; and

(2) the name and address of the president, secretary, and treasurer of the corporation, if the applicant is a corporation [~~; and~~

[~~(3) each conviction of a felony, or of a misdemeanor punishable by confinement in jail or by a fine exceeding $200, that was obtained against the applicant or a partner or officer of the applicant in the three years preceding the date of application~~].

SECTION 1.07. Section 2303.151(c), Occupations Code, is amended to read as follows:

(c) It is a defense to an action initiated by the department for a violation of this section that the operator of the facility unsuccessfully attempted in writing or electronically to obtain information from the governmental entity with which the vehicle is registered.

SECTION 1.08. Section 2303.155(b), Occupations Code, is amended to read as follows:

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

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

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

(A) is taken by or at the direction of the owner 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) $35 for each day or part of a day the vehicle is stored at the facility if the vehicle is longer than 25 feet; [~~and~~]

(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.

SECTION 1.09. Subchapter D, Chapter 2303, Occupations Code, is amended by adding Section 2303.160 to read as follows:

Sec. 2303.160. DRUG TESTING OF EMPLOYEES. (a) A license holder shall establish a drug testing policy for employees of the vehicle storage facility operated by the license holder. A license holder that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted by the commission.

(b) The commission by rule shall adopt a model drug testing policy for use by license holders. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. The model drug testing policy must:

(1) require at least one scheduled drug test each year for each employee of a vehicle storage facility who has direct contact with the public; and

(2) authorize random, unannounced drug testing for employees described by Subdivision (1).

SECTION 1.10. Section 2303.302, Occupations Code, is amended to read as follows:

Sec. 2303.302. CRIMINAL PENALTIES. (a) A person commits an offense if the person:

(1) violates the licensing requirements of [~~operates a vehicle storage facility for which a license has not been issued under~~] this chapter; or

(2) employs an individual who does not hold an appropriate license required by [~~violates a rule adopted by the commission under~~] this chapter.

(b) An offense under this section is a Class C misdemeanor [~~punishable by a fine of not less than $200 and not more than $500~~].

[~~(c) A person commits a separate offense for each day the person violates this section.~~]

SECTION 1.11. Subchapter G, Chapter 2303, Occupations Code, is amended by adding Sections 2303.304 and 2303.305 to read as follows:

Sec. 2303.304. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates:

(1) this chapter or a rule adopted under this chapter; or

(2) a rule or order of the executive director or commission.

(b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 2303.305. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

SECTION 1.12. Subtitle A, Title 14, Occupations Code, is amended by adding Chapter 2308 to read as follows:

CHAPTER 2308. VEHICLE TOWING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2308.001. SHORT TITLE. This chapter may be cited as the Texas Towing Act.

Sec. 2308.002. DEFINITIONS. In this chapter:

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

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

(3) "Consent tow" means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.

(4) "Department" means the Texas Department of Licensing and Regulation.

(5) "Driver's license" has the meaning assigned by Section 521.001, Transportation Code.

(6) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow.

(7) "Parking facility" means public or private property used, wholly or partly, for restricted or paid vehicle parking. The term includes:

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

(B) a commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, home, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including:

(i) a portion of the right-of-way of a

public roadway that is leased by a governmental entity to the parking facility owner; and

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

(8) "Parking facility owner" means:

(A) an owner or operator of a parking facility, including a lessee, employee, or agent of an owner or operator;

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

(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.

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

(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.

(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.

(12) "Towing company" means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a

public roadway in this state but does not include a political subdivision of the state.

(13) "Unauthorized vehicle" means a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner.

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

(15) "Vehicle owner" means a person:

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

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

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

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

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

(16) "Vehicle storage facility" means a vehicle storage facility, as defined by Section 2303.002, that is operated by a person who holds a license issued under Chapter 2303 to operate

the facility.

Sec. 2308.003. STUDY OF NONCONSENT TOWING FEES. (a) The department shall study the fees charged by license and permit holders for nonconsent tows, compliance of license and permit holders with local regulations governing towing fees, and consumer complaints related to fees for nonconsent tows. Not later than January 1, 2009, the department shall report to the legislature the findings of the study, including any recommendations for state regulation of towing fees.

(b) This section expires September 1, 2009.

[Sections 2308.004-2308.050 reserved for expansion]

SUBCHAPTER B. ADVISORY BOARD

Sec. 2308.051. TOWING AND STORAGE ADVISORY BOARD. (a) The advisory board consists of the following members appointed by the presiding officer of the commission with the approval of the commission:

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

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

(3) one owner of a vehicle storage facility located in a county with a population of less than one million;

(4) one owner of a vehicle storage facility located in a county with a population of one million or more;

(5) one parking facility owner;

(6) one law enforcement officer from a county with a population of less than one million;

(7) one law enforcement officer from a county with a population of one million or more; and

(8) one representative of property and casualty insurers who write automobile insurance in this state.

(b) The advisory board must include representation for each classification of towing.

(c) An appointment to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 2308.052. TERMS; VACANCIES. (a) Advisory board members serve terms of six years, with the terms of two or three members, as appropriate, expiring on February 1 of each odd-numbered year.

(b) A member may not serve more than two full consecutive terms.

(c) If a vacancy occurs during a term, the presiding officer of the commission shall appoint a replacement who meets the qualifications of the vacated position to serve for the remainder of the term.

Sec. 2308.053. PRESIDING OFFICER. The presiding officer of the commission shall appoint one of the advisory board members to serve as presiding officer of the advisory board for a term of one year. The presiding officer of the advisory board may vote on any matter before the advisory board.

Sec. 2308.054. COMPENSATION; REIMBURSEMENT OF EXPENSES. Advisory board members may not receive compensation but are entitled to reimbursement for actual and necessary expenses

incurred in performing the functions of the advisory board, subject to the General Appropriations Act.

Sec. 2308.055. MEETINGS. The advisory board shall meet twice annually and may meet at other times at the call of the presiding officer of the commission or the executive director.

Sec. 2308.056. GENERAL POWERS AND DUTIES. The executive director or commission, as appropriate, may take action as necessary to administer and enforce this chapter.

Sec. 2308.057. RULES. (a) The commission shall adopt rules for permitting tow trucks and licensing towing operators and towing companies.

(b) The commission by rule shall adopt standards of conduct for license and permit holders under this chapter.

Sec. 2308.058. FEES. The commission shall establish and collect reasonable and necessary fees in amounts sufficient to cover the costs of administering this chapter.

Sec. 2308.059. 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 or permit holder is in violation of this chapter or in violation of a rule or order of the commission or executive director.

(b) 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 towing company or operator;

(2) the inspection history;

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

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

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

(d) In conducting an inspection under this section, the department may inspect a vehicle, a facility, business records, or any other place or thing reasonably required to enforce this chapter or a rule or order adopted under this chapter.

Sec. 2308.060. POWERS AND DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration and enforcement of this chapter, including examination content, licensing standards, and continuing education requirements.

Sec. 2308.061. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter.

[Sections 2308.062-2308.100 reserved for expansion]

SUBCHAPTER C. TOW TRUCK PERMIT REQUIREMENTS

Sec. 2308.101. PERMIT REQUIRED. A tow truck may not be used for consent towing or nonconsent towing on a public roadway in this state unless an appropriate permit has been issued for the tow truck

under this subchapter. Each tow truck requires a separate permit.

Sec. 2308.102. APPLICATION REQUIREMENTS. (a) An applicant for a permit under this subchapter must submit to the department:

(1) a completed application on a form prescribed by the executive director;

(2) evidence of insurance or financial responsibility required under this subchapter;

(3) the required fees; and

(4) any other information required by the executive director.

(b) The department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.

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(e), Transportation Code.

Sec. 2308.104. REQUIREMENTS FOR PRIVATE PROPERTY TOWING PERMIT. (a) A private property towing permit is required for a tow truck used to perform a nonconsent tow authorized by a parking facility owner under this chapter.

(b) To be eligible for a private property 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 $300,000 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 consent towing but not for incident management towing.

Sec. 2308.105. REQUIREMENTS FOR CONSENT TOWING PERMIT. (a) A consent towing permit is required for a tow truck used to perform a consent tow authorized by the vehicle owner.

(b) To be eligible for a consent 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; and

(2) the applicant has at least $300,000 of liability insurance for the tow truck.

(c) A tow truck permitted under this section may not be used for nonconsent towing, including incident management towing and private property towing.

Sec. 2308.106. DEPARTMENT APPROVAL; ISSUANCE OF PERMIT. (a) The department shall issue a permit under this subchapter to an applicant who meets the requirements for a permit. The department may deny an application if the applicant has had a permit revoked under this chapter.

(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.

Sec. 2308.107. PERMIT RENEWAL. (a) A permit issued under this chapter is valid for one year. The department may adopt a system under which permits expire at different times during the year.

(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 address according to the records of the department.

(c) A permit holder may renew a permit under this chapter by:

(1) paying a fee for each tow truck; and

(2) providing to the department evidence of continuing

insurance or financial responsibility in an amount required by this chapter.

Sec. 2308.108. CAB CARDS. (a) The department shall issue a cab card for each tow truck issued a permit. The cab card must:

(1) show the permit number of the certificate issued under Section 2308.106(b);

(2) show the type of permit issued;

(3) show the vehicle unit number;

(4) show the vehicle identification number; and

(5) contain a statement that the vehicle has been issued a permit under this subchapter.

(b) The department shall issue a cab card when the department issues or renews a permit under this subchapter.

(c) A permit holder must keep the cab card in the cab of each permitted tow truck.

(d) The department may order a permit holder to surrender a cab card if the permit is suspended or revoked under this chapter.

(e) If the department determines that the cab card system described by Subsections (a) through (c) is not an efficient means of enforcing this subchapter, the executive director by rule may adopt an alternative method that is accessible by law enforcement personnel in the field and provides for the enforcement of the permit requirements of this subchapter.

(f) A cab card or a permit issued under the alternative method described in Subsection (e) must be valid for the same duration as a certificate issued under Section 2308.106.

Sec. 2308.109. DISPLAY OF INFORMATION ON TOW TRUCK. (a) A

permit holder shall display on each permitted tow truck:

(1) the permit holder's name;

(2) the permit holder's telephone number;

(3) the city and state where the permit holder is located; and

(4) the permit number for the tow truck.

(b) The information required to be displayed must be:

(1) printed in letters and numbers that are at least two inches high and in a color that contrasts with the color of the background surface; and

(2) permanently affixed in conspicuous places on both sides of the tow truck.

Sec. 2308.110. FINANCIAL RESPONSIBILITY. (a) A permit holder shall maintain liability insurance for each tow truck according to the requirements under this subchapter.

(b) Unless state law permits a tow truck to be self-insured, any insurance required for a tow truck must be obtained from an insurer authorized to do business in this state.

(c) An applicant or permit holder must file with the department evidence of insurance as required by this subchapter.

(d) A permit holder shall keep evidence of insurance in a form approved by the department in the cab of each permitted tow truck.

[Sections 2308.111-2308.150 reserved for expansion]

SUBCHAPTER D. LICENSE REQUIREMENTS

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.

Sec. 2308.152. GENERAL LICENSE APPLICATION REQUIREMENTS. An applicant for a license under this subchapter must submit to the department:

(1) a completed application on a form prescribed by the executive director;

(2) the required fees; and

(3) any other information required by commission rule.

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) be a licensed Texas driver; and

(2) be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by the department.

Sec. 2308.154. PRIVATE PROPERTY TOWING OPERATOR'S LICENSE. (a) A private property towing operator's license is required to operate a tow truck permitted under Section 2308.104.

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

(1) be a licensed Texas driver; and

(2) be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by the department.

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

(b) An applicant for a consent towing operator's license must be a licensed Texas driver.

Sec. 2308.156. NONTRANSFERABILITY OF LICENSE. A license issued by the executive director is valid throughout this state and is not transferable.

Sec. 2308.157. CONTINUING EDUCATION. (a) The commission by rule shall recognize, prepare, or administer continuing education programs for license holders. Except as provided by Subsection (c), each license holder must complete a continuing education program before the license holder may renew the license holder's license.

(b) A person recognized by the commission to offer a continuing education program must:

(1) register with the department; and

(2) comply with rules adopted by the commission relating to continuing education.

(c) To renew an incident management towing operator's license the first time, a license holder must complete a professional development course relating to towing that is licensed or certified by the National Safety Council or another course approved and administered by the department under this section.

Sec. 2308.158. DRUG TESTING OF TOWING OPERATORS. (a) A towing company shall establish a drug testing policy for towing

operators. A towing company that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted by the commission.

(b) The commission by rule shall adopt a model drug testing policy for use by a towing company. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. The model drug testing policy must:

(1) require at least one scheduled drug test each year for each towing operator; and

(2) authorize random, unannounced drug testing for towing operators.

Sec. 2308.159. LICENSE RENEWAL. (a) A license issued under this subchapter is valid for one year. The department may adopt a system under which licenses expire at different times during the year.

(b) The department shall notify the license holder at least 30 days before the date a license expires. The notice must be in writing and sent to the license holder's last known address according to the records of the department.

(c) A license holder may renew a license issued under this chapter by:

(1) paying a renewal fee; and

(2) completing continuing education as required by Section 2308.157.

ARTICLE 2. CONSOLIDATION OF LAWS RELATED TO TOWING

SECTION 2.01. Sections 643.201 and 643.203 through 643.208, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter E, Chapter 2308, Occupations Code, renumbered as Sections 2308.201 through 2308.207, Occupations Code, and amended to read as follows:

SUBCHAPTER E. LOCAL REGULATION OF TOWING

Sec. 2308.201 [~~643.201~~]. TOW TRUCK REGULATION BY POLITICAL SUBDIVISIONS. (a) A [~~In addition to the registration requirements of Subchapter B, a~~] political subdivision of this state may regulate the operation of a tow truck to the extent allowed by federal law, except that a political subdivision may not issue a more restrictive regulation for the use of lighting equipment on a tow truck than is imposed by Title 7, Transportation Code [~~this title~~].

(b) A political subdivision may not require the registration of a tow truck that performs consent tows in the political subdivision unless the owner of the tow truck has a place of business in the territory of the political subdivision.

(c) A political subdivision may require the registration of a tow truck that performs a nonconsent tow in the political subdivision, regardless of whether the owner of the tow truck has a place of business in the territory of the political subdivision.

(d) A political subdivision may not require a person who holds a driver's license or commercial driver's license to obtain a license or permit for operating a tow truck unless the person performs nonconsent tows in the territory of the political

subdivision. A fee charged for a license or permit may not exceed $15.

[~~(c) In this section:~~

[~~(1) "Commercial driver's license" has the meaning assigned by Section 522.003.~~

[~~(2) "Consent tow" means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.~~

[~~(3) "Driver's license" has the meaning assigned by Section 521.001.~~

[~~(4) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow.~~]

Sec. 2308.202 [~~643.203~~]. REGULATION BY POLITICAL SUBDIVISIONS OF FEES FOR NONCONSENT TOWS. The governing body of a political subdivision may regulate the fees that may be charged or collected in connection with a nonconsent tow originating in the territory of the political subdivision.

Sec. 2308.203 [~~643.204~~]. TOWING FEE STUDIES. (a) The governing body of a political subdivision that regulates nonconsent tow fees shall establish procedures by which a towing company may request that a towing fee study be performed.

(b) The governing body of the political subdivision shall establish or amend the allowable fees for nonconsent tows at amounts that represent the fair value of the services of a towing

company and are reasonably related to any financial or accounting information provided to the governing body.

Sec. 2308.204 [~~643.205~~]. FEES FOR NONCONSENT TOWS IN OTHER AREAS. (a) In an area in which no political subdivision regulates the fees that may be charged or collected for a nonconsent tow from private property, a towing company may charge and collect a fee for the tow of a motor vehicle from private property in an amount not to exceed an amount equal to 150 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.

(b) A towing company may charge and collect a fee for the tow of a vehicle, with a gross vehicle weight rating in excess of 26,000 pounds, from private property in an amount not to exceed an amount equal to 125 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.

Sec. 2308.205 [~~643.206~~]. STORAGE OF TOWED VEHICLES. (a) A towing company that makes a nonconsent tow shall tow the vehicle to a vehicle storage facility that is operated by a person who holds a license to operate the facility under Chapter 2303, [~~Occupations Code,~~] unless the towing company agrees to take the vehicle to a location designated by the vehicle's owner.

(b) A storage or notification fee imposed in connection with a motor vehicle towed to a vehicle storage facility is governed by Chapter 2303[~~, Occupations Code~~].

(c) Except as provided by this chapter, Article 18.23, Code of Criminal Procedure, or Chapter 2303[~~, Occupations Code~~], a fee may not be charged or collected without the prior written consent of the vehicle owner or operator.

Sec. 2308.206 [~~643.207~~]. REQUIRED FILING. (a) Before January 31 of each year, a towing company shall file with the department a schedule showing each towing fee that the towing company charges or collects in connection with a nonconsent tow.

(b) If a political subdivision begins regulating nonconsent tow fees, the fees shall be reported to the department by the towing company before the 30th day after the regulation goes into effect.

(c) Any changes in nonconsent tow fees regulated by a political subdivision shall be reported to the department by the towing company before the 30th day after the effective date of the change.

(d) The department shall make towing fee schedules available on the department's Internet website. The department shall make no determination as to the reasonableness of a towing fee schedule.

(e) A license or permit holder may not charge a fee for a nonconsent tow that is greater than the fee listed in the schedule most recently submitted to the department under this section.

Sec. 2308.207 [~~643.208~~]. REQUIRED POSTING. (a) All [~~towing and~~] storage fees shall be posted at the licensed vehicle storage facility to which the motor vehicle has been delivered and shall be posted in view of the person who claims the vehicle.

(b) A vehicle storage facility accepting a nonconsent towed

vehicle shall post a sign in one inch letters stating "Nonconsent tow fees schedules available on request." The vehicle storage facility shall provide a copy of a nonconsent towing fees schedule on request.

SECTION 2.02. Section 684.101, Transportation Code, is transferred to Subchapter E, Chapter 2308, Occupations Code, and renumbered as Section 2308.208, Occupations Code, to read as follows:

Sec. 2308.208 [~~684.101~~]. MUNICIPAL ORDINANCE REGULATING UNAUTHORIZED VEHICLES. A municipality may adopt an ordinance that is identical to this chapter or that imposes additional requirements that exceed the minimum standards of this chapter but may not adopt an ordinance conflicting with this chapter.

SECTION 2.03. Sections 684.011, 684.012, 684.0125, 684.013, 684.014, and 684.015, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter F, Chapter 2308, Transportation Code, renumbered as Sections 2308.251 through 2308.256, Occupations Code, and amended to read as follows:

SUBCHAPTER F. UNAUTHORIZED VEHICLES

Sec. 2308.251 [~~684.011~~]. PROHIBITION AGAINST UNATTENDED VEHICLES IN CERTAIN AREAS. (a) The owner or operator of a vehicle may not 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;

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

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

(4) does not display the special license plates issued under Section 504.201, Transportation Code, or the disabled parking placard issued under Chapter 681, Transportation Code, for a vehicle transporting a disabled person and is in a parking space that is designated for the exclusive use of a vehicle transporting a disabled person.

(b) Subsection (a) does not apply to an emergency vehicle that is owned by, or the operation of which is authorized by, a governmental entity.

(c) If a government regulation governing the marking of a fire lane applies to a parking facility, a fire lane in the facility must be marked as provided by the regulation. If a government regulation on the marking of a fire lane does not apply to the parking facility, all curbs of fire lanes must be painted red and be conspicuously and legibly marked with the warning "FIRE LANE--TOW AWAY ZONE" in white letters at least three inches tall, at intervals not exceeding 50 feet.

Sec. 2308.252 [~~684.012~~]. REMOVAL AND STORAGE OF UNAUTHORIZED VEHICLE. (a) A parking facility owner may, without the consent of the owner or operator of an unauthorized vehicle, cause the vehicle and any property on or in the vehicle to be removed and stored at a vehicle storage facility at the vehicle owner's or operator's expense if:

(1) signs that comply with Subchapter G [~~C~~] prohibiting unauthorized vehicles are located on the parking

facility at the time of towing and for the preceding 24 hours and remain installed at the time of towing;

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

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

(4) the vehicle is:

(A) left in violation of Section 2308.251 [~~684.011~~] or 2308.253 [~~684.0125~~]; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility [~~and the removal is approved by a peace officer~~].

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

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

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

(B) a description of all other unauthorized areas in the parking facility;

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

(D) a telephone number that is answered 24 hours

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

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

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

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

(2) describe all other unauthorized areas in the parking facility;

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

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

(d) The mailing of a notice under Subsection (b)(2) is not required if after the notice is attached under Subsection (b)(1) the owner or operator of the vehicle leaves the vehicle in another location where parking is unauthorized for the vehicle according to the notice.

Sec. 2308.253 [~~684.0125~~]. UNATTENDED VEHICLES ON PARKING FACILITY OF APARTMENT COMPLEX; REMOVAL AND STORAGE OF VEHICLES.

(a) This section applies only to a parking facility serving or adjacent to an apartment complex consisting of one or more residential apartment units and any adjacent real property serving the apartment complex.

(b) The owner or operator of a vehicle may not leave unattended on a parking facility a vehicle that:

(1) obstructs a gate that is designed or intended for the use of pedestrians or vehicles;

(2) obstructs pedestrian or vehicular access to an area that is used for the placement of a garbage or refuse receptacle used in common by residents of the apartment complex;

(3) is in or obstructs a restricted parking area or parking space designated under Subchapter G [~~C~~], including a space designated for the use of employees or maintenance personnel of the parking facility or apartment complex;

(4) is in a tow away zone, other than a fire lane covered by Section 2308.251(c) [~~684.011(c)~~], that is brightly painted and is conspicuously and legibly marked with the warning "TOW AWAY ZONE" in contrasting letters at least three inches tall;

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

(6) is leaking a fluid that presents a hazard or threat to persons or property.

(c) A parking facility owner may not have an emergency

vehicle described by Section 2308.251(b) [~~684.011(b)~~] removed from the parking facility.

(d) Except as provided by a contract described by Subsection (e), a parking facility owner may not have a vehicle removed from the parking facility merely because the vehicle does not display:

(1) 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; or

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

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

(1) delivered in person to the owner or operator of the vehicle; or

(2) sent by certified mail, return receipt requested, to that owner or operator.

(f) This section may not be construed:

(1) to authorize the owner or operator of a vehicle to leave an unattended vehicle on property that is not designed or

intended for the parking of vehicles; or

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

(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.

Sec. 2308.254 [~~684.013~~]. LIMITATION ON PARKING FACILITY OWNER'S AUTHORITY TO REMOVE UNAUTHORIZED VEHICLE. A parking facility owner may not have an unauthorized vehicle removed from the facility except:

(1) as provided by this chapter or a municipal ordinance that complies with Section 2308.208 [~~684.101~~]; or

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

Sec. 2308.255 [~~684.014~~]. TOWING COMPANY'S AUTHORITY TO REMOVE AND STORE UNAUTHORIZED VEHICLE. (a) A towing company that is insured as provided by Subsection (c) may, without the consent of an owner or operator of an unauthorized vehicle, remove and store the vehicle at a vehicle storage facility at the expense of the owner or operator of the vehicle if:

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

(A) the parking facility owner has installed the signs required by Section 2308.252(a)(1) [~~684.012(a)(1)~~]; or

(B) the owner or operator received notice under Section 2308.252(a)(2) [~~684.012(a)(2)~~] or the parking facility

owner gave notice complying with Section 2308.252(a)(3) [~~684.012(a)(3)~~]; or

(2) the vehicle is:

(A) left in violation of Section 2308.251 [~~684.011~~]; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility and the removal is approved by a peace officer.

(b) A towing company may not remove an unauthorized vehicle except under:

(1) this chapter;

(2) a municipal ordinance that complies with Section 2308.208 [~~684.101~~]; or

(3) the direction of a peace officer or the owner or operator of the vehicle.

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

(d) A towing company may remove and store a vehicle under Subsection (a) only if the parking facility owner:

(1) requests that the towing company remove and store the specific vehicle; or

(2) has a standing written agreement with the towing company to enforce parking restrictions in the parking facility from which the vehicle will be removed.

Sec. 2308.256 [~~684.015~~]. VEHICLE STORAGE FACILITY'S DUTY TO REPORT AFTER ACCEPTING UNAUTHORIZED VEHICLE. (a) A vehicle

storage facility accepting a vehicle that is towed under this chapter shall within two hours after receiving the vehicle report to the police department of the municipality in which the parking facility is located, or, if the parking facility is not located in a municipality having a police department, to the sheriff of the county in which the parking facility is located:

(1) a general description of the vehicle;

(2) the state and number of the vehicle's license plate, if any;

(3) the vehicle identification number of the vehicle, if it can be ascertained;

(4) the location from which the vehicle was towed; and

(5) the name and location of the vehicle storage facility where the vehicle is being stored.

(b) The report required by this section must be made by telephone or delivered personally or by facsimile.

SECTION 2.04. Subchapter C, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter G, Chapter 2308, Occupations Code, and Sections 684.031 through 684.035, Transportation Code, are renumbered as Sections 2308.301 through 2308.305, Occupations Code, and amended to read as follows:

SUBCHAPTER G [~~C~~]. SIGNS PROHIBITING UNAUTHORIZED VEHICLES AND DESIGNATING RESTRICTED AREAS

Sec. 2308.301 [~~684.031~~]. GENERAL REQUIREMENTS FOR SIGN PROHIBITING UNAUTHORIZED VEHICLES. (a) Except as provided by Subsection (a)(2)(B) and Section 2308.304 [~~684.034~~] or 2308.305

[~~684.035~~] an unauthorized vehicle may not be towed under Section 2308.252(a)(1) [~~684.012(a)(1)~~] unless a sign prohibiting unauthorized vehicles on a parking facility is:

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

(2) located:

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

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

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

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

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

(4) installed on the parking facility; and

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

(b) Except as provided by Section 2308.305 [~~684.035~~], an unauthorized vehicle may be towed under Section 2308.252(a)(1) [~~684.012(a)(1)~~] 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 "Unauthorized Vehicles Will Be Towed at Owner's or Operator's Expense";

(6) contains a statement of the days and hours of towing 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 the vehicle.

Sec. 2308.302 [~~684.032~~]. COLOR, LAYOUT, AND LETTERING HEIGHT REQUIREMENTS. (a) Except as provided by Section 2308.305 [~~684.035~~], each sign required by this chapter must comply with the color, layout, and lettering height requirements of this section.

(b) A bright red international towing symbol, which is a solid silhouette of a tow truck towing a vehicle on a generally rectangular white background, at least four inches in height, must be on the uppermost portion of a sign or on a separate sign placed immediately above the sign.

(c) The portion of the sign immediately below the international towing symbol must contain the words "Towing Enforced" or the information provided by Section 2308.301(b)(4) [~~684.031(b)(4)~~] in lettering at least two inches in height. The lettering on this portion of the sign must consist of white letters on a bright red background.

(d) Except as provided by Subsection (e), the next lower portion of the sign must contain the remaining information required by Section 2308.301(b) [~~684.031(b)~~] displayed in bright red letters at least one inch in height on a white background.

(e) The bottommost portion of the sign must contain the telephone number required by Section 2308.301(b) [~~684.031(b)~~], in lettering at least one inch in height and may, if the facility owner chooses or if an applicable municipal ordinance requires, include the name and address of the storage facility to which an unauthorized vehicle will be removed. The lettering on this portion of the sign must consist of white letters on a bright red background.

Sec. 2308.303 [~~684.033~~]. TELEPHONE NUMBER FOR LOCATING TOWED VEHICLE REQUIRED. If a parking facility owner posts a sign described by Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~], the owner of a vehicle that is towed from the facility under this chapter must be able to locate the vehicle by calling the telephone number on the sign.

Sec. 2308.304 [~~684.034~~]. DESIGNATION OF RESTRICTED PARKING SPACES ON OTHERWISE UNRESTRICTED PARKING FACILITY. A parking facility owner may designate one or more spaces as restricted parking spaces on a portion of an otherwise unrestricted parking facility. Instead of installing a sign at each entrance to the parking facility as provided by Section 2308.301(a)(2) [~~684.031(a)(2)~~], an owner may place a sign that prohibits unauthorized vehicles from parking in designated spaces and that otherwise complies with Sections 2308.301 [~~684.031~~] and 2308.302

[~~684.032~~]:

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

(2) at the end of a restricted parking space so that the sign, the top of which must not be higher than seven feet above the ground, is in front of a vehicle that is parked in the space and the rear of which is at the entrance of the space.

Sec. 2308.305 [~~684.035~~]. INDIVIDUAL PARKING RESTRICTIONS IN RESTRICTED AREA. (a) A parking facility owner who complies with Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~] may impose further specific parking restrictions in an area to which the signs apply for individual spaces by installing or painting a weather-resistant sign or notice on a curb, pole, post, permanent wall, or permanent barrier so that the sign is in front of a vehicle that is parked in the space and the rear of which is at the entrance of the space.

(b) The top of the sign or notice may not be higher than seven feet above the ground.

(c) The sign or notice must include an indication that the space is reserved for a particular unit number, person, or type of person.

(d) The letters on the sign or notice must be at least two inches in height and must contrast to the color of the curb, wall, or barrier so they can be read during the day and at night. The letters are not required to be illuminated or made of reflective material.

SECTION 2.05. Subchapter D, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter H, Chapter 2308, Occupations Code, and Sections 684.051 through 684.054, Transportation Code, are renumbered as Sections 2308.351 through 2308.354, Occupations Code, and amended to read as follows:

SUBCHAPTER H [~~D~~]. REGULATION OF PARKING ON CERTAIN PUBLIC ROADWAY AREAS

Sec. 2308.351 [~~684.051~~]. REMOVAL OF UNAUTHORIZED VEHICLE FROM LEASED RIGHT-OF-WAY. Unless prohibited by the lease, a parking facility owner or towing company may remove an unauthorized vehicle parked in a leased area described by Section 2308.002(7)(B)(i) [~~684.001(1)(B)(i)~~] if the owner or towing company gives notice under Section 2308.252(a)(1), (2), or (3) [~~684.012(a)(1), (2), or (3)~~] and otherwise complies with this chapter.

Sec. 2308.352 [~~684.052~~]. REMOVAL OF UNAUTHORIZED VEHICLE FROM AREA BETWEEN PARKING FACILITY AND PUBLIC ROADWAY. Unless prohibited by a municipal ordinance, a parking facility owner or towing company may remove an unauthorized vehicle any part of which is in an area described by Section 2308.002(7)(B)(ii) [~~684.001(1)(B)(ii)~~] if notice provided by Section 2308.252(a)(2) or (3) [~~684.012(a)(2) or (3)~~] is given and the owner or towing company has otherwise complied with this chapter.

Sec. 2308.353 [~~684.053~~]. REMOVAL UNDER GOVERNMENTAL ENTITY'S AUTHORITY OF UNAUTHORIZED VEHICLE PARKED IN RIGHT-OF-WAY. (a) A governmental entity that has jurisdiction over a public

roadway and that has posted one or more signs in the right-of-way stating that parking is prohibited in the right-of-way may:

(1) remove or contract with a towing company to remove an unauthorized vehicle parked in the right-of-way of the public roadway; or

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

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

(B) remove vehicles from the right-of-way of the public roadway under this chapter.

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

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

(2) be placed facing the public roadway:

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

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

(3) in all other respects comply with Subchapter G [~~C~~].

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

Sec. 2308.354 [~~684.054~~]. AUTHORITY FOR REMOVAL OF VEHICLE FROM PUBLIC ROADWAY. (a) Under an ordinance of a municipality regulating the parking of vehicles in the municipality, to aid in the enforcement of the ordinance, an employee designated by the municipality may be authorized to:

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

(2) remove an immobilized vehicle from a public roadway in the municipality.

(b) A parking facility owner or towing company may not remove a vehicle from a public roadway except under:

(1) this chapter or a municipal ordinance that complies with Section 2308.208 [~~684.101~~]; or

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

SECTION 2.06. Subchapter E, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter I, Chapter 2308, Occupations Code, and Sections 684.081 through 684.087, Transportation Code, are renumbered as Sections 2308.401 through 2308.407, Occupations Code, to read as follows:

SUBCHAPTER I [~~E~~]. REGULATION OF TOWING COMPANIES AND PARKING FACILITY OWNERS

Sec. 2308.401 [~~684.081~~]. PARKING FACILITY OWNER PROHIBITED FROM RECEIVING FINANCIAL GAIN FROM TOWING COMPANY. (a) A parking facility owner may not directly or indirectly accept anything of value from a towing company in connection with the removal of a

vehicle from a parking facility.

(b) A parking facility owner may not have a direct or indirect monetary interest in a towing company that for compensation removes unauthorized vehicles from a parking facility in which the parking facility owner has an interest.

Sec. 2308.402 [~~684.082~~]. TOWING COMPANY PROHIBITED FROM FINANCIAL INVOLVEMENT WITH PARKING FACILITY OWNER. (a) A towing company may not directly or indirectly give anything of value to a parking facility owner in connection with the removal of a vehicle from a parking facility.

(b) A towing company may not have a direct or indirect monetary interest in a parking facility from which the towing company for compensation removes unauthorized vehicles.

Sec. 2308.403 [~~684.083~~]. LIMITATION ON LIABILITY OF PARKING FACILITY OWNER FOR REMOVAL OR STORAGE OF UNAUTHORIZED VEHICLE. A parking facility owner who causes the removal of an unauthorized vehicle is not liable for damages arising from the removal or storage of the vehicle if the vehicle:

(1) was removed in compliance with this chapter; and

(2) is:

(A) removed by a towing company insured against liability for property damage incurred in towing a vehicle; and

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

Sec. 2308.404 [~~684.084~~]. CIVIL LIABILITY OF TOWING COMPANY OR PARKING FACILITY OWNER FOR VIOLATION OF CHAPTER. (a) A towing

company or parking facility owner who violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for:

(1) damages arising from the removal or storage of the vehicle; and

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

(b) A vehicle's owner or operator is not required to prove negligence of a parking facility owner or towing company to recover under Subsection (a).

(c) A towing 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 $300 plus three times the amount of fees assessed in the vehicle's removal, towing, or storage.

(d) In a suit brought under this chapter, the prevailing party is entitled to recover reasonable attorney's fees.

Sec. 2308.405 [~~684.085~~]. VIOLATION OF CHAPTER; FINE. A violation of this chapter is a misdemeanor punishable by a fine of not less than $500 or more than $1,500.

Sec. 2308.406 [~~684.086~~]. VIOLATION OF CHAPTER; INJUNCTION. A violation of this chapter may be enjoined under Subchapter E, Chapter 17, Business & Commerce Code.

Sec. 2308.407 [~~684.087~~]. MINOR SIGN OR LETTERING HEIGHT VARIATIONS. A minor variation of a required or minimum height of a sign or lettering is not a violation of this chapter.

SECTION 2.07. Sections 685.002 through 685.010,

Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter J, Chapter 2308, Occupations Code, renumbered as Sections 2308.451 through 2308.459, Occupations Code, and amended to read as follows:

SUBCHAPTER J. RIGHTS OF OWNERS AND OPERATORS OF STORED VEHICLES

Sec. 2308.451 [~~685.002~~]. PAYMENT OF COST OF REMOVAL AND STORAGE OF VEHICLE. (a) If in a hearing held under this chapter the court finds that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person who requested the hearing shall pay the costs of the removal and storage.

(b) If in a hearing held under this chapter the court does not find that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person or law enforcement agency that authorized the removal shall:

(1) pay the costs of the removal and storage; or

(2) reimburse the owner or operator for the cost of the removal and storage paid by the owner or operator.

Sec. 2308.452 [~~685.003~~]. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO HEARING. The owner or operator of a vehicle that has been removed and placed in a vehicle storage facility without the consent of the owner or operator of the vehicle is entitled to a hearing on whether probable cause existed for the removal and placement.

Sec. 2308.453 [~~685.004~~]. JURISDICTION. A hearing under this chapter shall be in the justice court having jurisdiction in

the precinct in which the vehicle storage facility is located.

Sec. 2308.454 [~~685.005~~]. NOTICE TO VEHICLE OWNER OR OPERATOR. (a) If before a hearing held under this chapter the owner or operator of a vehicle pays the costs of the vehicle's 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 chapter.

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

Sec. 2308.455 [~~685.006~~]. CONTENTS OF NOTICE. The notice under Section 2308.454 [~~685.005~~] must include:

(1) a statement of:

(A) the person's right to submit a request within 14 days for a court hearing to determine whether probable cause existed to remove the vehicle;

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

(C) any filing fee for the hearing;

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

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

(4) the name, address, and telephone number of the person, property owner, or law enforcement agency that authorized

the removal of the vehicle; and

(5) the name, address, and telephone number of the justice court having jurisdiction in the precinct in which the vehicle storage facility is located.

Sec. 2308.456 [~~685.007~~]. REQUEST FOR HEARING. (a) Except as provided by Subsection (c), a person entitled to a hearing under this chapter must deliver a written request for the hearing to the court before the 14th day after the date the vehicle was removed and placed in the vehicle storage facility, excluding Saturdays, Sundays, and legal holidays.

(b) A request for a hearing must contain:

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

(2) the location from which the vehicle was removed;

(3) the date when the vehicle was removed;

(4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal;

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

(6) the name, address, and telephone number of the towing company that removed the vehicle;

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

(8) if the vehicle was removed from a parking facility:

(A) one or more photographs that show the

location and text of any sign posted at the facility restricting parking of vehicles; or

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

(c) If notice was not given under Section 2308.454 [~~685.005~~], the 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.

(d) A person who fails to deliver a request in accordance with Subsection (a) waives the right to a hearing.

Sec. 2308.457 [~~685.008~~]. FILING FEE AUTHORIZED. The court may charge a filing fee of $20 for a hearing under this chapter.

Sec. 2308.458 [~~685.009~~]. HEARING. (a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing.

(b) The court shall notify the person who requested the hearing, [~~and~~] the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure [~~by registered or certified mail~~]. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.

(b-1) At a hearing under this section:

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

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

(c) The issues in a hearing 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 [~~643.201~~] or 2308.202 [~~643.203~~];

(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 [~~643.204~~] or 2308.204 [~~643.205~~]; or

(4) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount filed with the department under Section 2308.206 [~~643.207~~].

(d) The court shall make written findings of fact and a conclusion of law.

(e) The court may award:

(1) court costs to the prevailing party;

(2) the reasonable cost of photographs submitted under Section 2308.456(b)(8) [~~685.007(b)(8)~~] to a vehicle owner or operator who is the prevailing party; [~~and~~]

(3) an amount equal to the amount that the towing charge exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303; and

(4) reimbursement of fees paid for vehicle towing and storage [~~, Occupations Code~~].

Sec. 2308.459 [~~685.010~~]. APPEAL. An appeal from a hearing under this chapter is governed by the rules of procedure applicable to civil cases in justice court, except that no appeal bond may be required by the court.

SECTION 2.08. Subchapter J, Chapter 2308, Occupations Code, as added by this Act, is amended by adding Section 2308.460 to read as follows:

Sec. 2308.460. ENFORCEMENT OF AWARD. An award under this chapter may be enforced by any means available for the enforcement of a judgment for a debt.

SECTION 2.09. Chapter 2308, Occupations Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. ENFORCEMENT

Sec. 2308.501. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates:

(1) this chapter or a rule adopted under this chapter; or

(2) a rule or order of the executive director or commission.

(b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 2308.502. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

Sec. 2308.503. SANCTIONS. The department may impose sanctions as provided by Section 51.353.

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

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

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

(3) employs an individual who does not hold the appropriate license required by this chapter; or

(4) falsifies a certification or training.

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

SECTION 2.10. Section 643.253(d), Transportation Code, is transferred to Subchapter K, Chapter 2308, Occupations Code, renumbered as Section 2308.505, Occupations Code, and amended to read as follows:

Sec. 2308.505. CRIMINAL PENALTY; TOWING. (a) [~~(d)~~] 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 [~~643.201~~] or 2308.202 [~~643.203~~], 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 [~~643.201~~] or 2308.202 [~~643.203~~] 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 [~~643.205~~];

(4) charges or collects a fee in excess of the amount filed with the department under Section 2308.206 [~~643.207~~];

(5) violates Section 2308.205 [~~643.206~~]; or

(6) violates a rule of the department applicable to a tow truck and towing company.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $200 or more than $1,000 per violation.

ARTICLE 3. CONFORMING AMENDMENTS

SECTION 3.01. Article 18.23(e), Code of Criminal Procedure, is amended to read as follows:

(e) Subchapter J, Chapter 2308, Occupations Code [~~Chapter 685, Transportation Code~~], does not apply to a motor vehicle directed by a law enforcement agency to be towed and stored for an evidentiary or examination purpose.

SECTION 3.02. Section 101.141(a), Government Code, is amended to read as follows:

(a) A clerk of a justice court shall collect fees and costs

as follows:

(1) additional court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the commissioners court of a county with a population of at least 2.5 million (Sec. 152.005, Civil Practice and Remedies Code) . . . not to exceed $3;

(2) additional filing fees:

(A) to fund Dallas County civil court facilities (Sec. 51.705, Government Code) . . . not more than $15; and

(B) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $2;

(3) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . $1.50;

(4) fee for hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 2308.457, Occupations Code [~~685.008, Transportation Code~~]) . . . $20;

(5) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas

Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(6) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid;

(7) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding; and

(8) the cost of a special program that a court may order a child to attend after a finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed $100.

SECTION 3.03. Section 101.161, Government Code, is amended

to read as follows:

Sec. 101.161. MUNICIPAL COURT FEES AND COSTS. The clerk of a municipal court shall collect:

(1) a fee for a hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 2308.457, Occupations Code [~~685.008, Transportation Code~~]) . . . $20; and

(2) the cost of a special program that a court may order a child to attend after finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed $100.

SECTION 3.04. Section 2303.155(f), Occupations Code, is amended to read as follows:

(f) The operator of a vehicle storage facility or governmental vehicle storage facility may not charge an additional fee related to the storage of a vehicle other than a fee authorized by this section or a towing fee authorized by Chapter 2308 [~~Chapter 643, Transportation Code~~].

SECTION 3.05. Section 504.508(c), Transportation Code, is amended to read as follows:

(c) Proof of eligibility for license plates under this section must include a copy of the permit [~~registration~~] certificate issued by the Texas Department of Licensing and Regulation [~~department~~] for the tow truck.

SECTION 3.06. Section 643.002, Transportation Code, is amended to read as follows:

Sec. 643.002. EXEMPTIONS. This chapter does not apply to:

(1) a motor vehicle registered under the single state registration system established under 49 U.S.C. Section 14504(c) when operating exclusively in interstate or international commerce;

(2) a motor vehicle registered as a cotton vehicle under Section 502.277;

(3) a motor vehicle the department by rule exempts because the vehicle is subject to comparable registration and a comparable safety program administered by another governmental entity;

(4) a motor vehicle used to transport passengers operated by an entity whose primary function is not the transportation of passengers, such as a vehicle operated by a hotel, day-care center, public or private school, nursing home, or similar organization;

(5) a vehicle operating under a private carrier permit issued under Chapter 42, Alcoholic Beverage Code; [~~or~~]

(6) a vehicle operated by a governmental entity; or

(7) a tow truck, as defined by Section 2308.002, Occupations Code.

SECTION 3.07. Section 643.051(a), Transportation Code, is amended to read as follows:

(a) A motor carrier may not operate a commercial motor vehicle, as defined by Section 548.001, [~~or a tow truck~~] on a road or highway of this state unless the carrier registers with the department under this subchapter.

SECTION 3.08. Section 643.053, Transportation Code, is

amended to read as follows:

Sec. 643.053. FILING OF APPLICATION. An application under Section 643.052 must be filed with the department and accompanied by:

(1) an application fee of $100 plus a $10 fee for each vehicle requiring registration [~~other than a tow truck or a $25 fee for each tow truck the motor carrier proposes to operate~~];

(2) evidence of insurance or financial responsibility as required by Section 643.103(a); and

(3) any insurance filing fee required under Section 643.103(c).

SECTION 3.09. Sections 643.057(a) and (d), Transportation Code, are amended to read as follows:

(a) A motor carrier may not operate an additional vehicle requiring registration unless the carrier pays a registration fee of $10 for each additional vehicle [~~other than a tow truck or $25 for each tow truck~~] and shows the department evidence of insurance or financial responsibility for the vehicle in an amount at least equal to the amount set by the department under Section 643.101.

(d) The department may not collect more than $10 in equipment registration fees for a vehicle [~~other than a tow truck~~] registered under both this subchapter and Chapter 645 [~~or more than $25 if the vehicle is a tow truck~~].

SECTION 3.10. Section 643.058(c), Transportation Code, is amended to read as follows:

(c) A motor carrier may renew a registration under this subchapter by:

(1) supplementing the application with any new information required under Section 643.056;

(2) paying a $10 fee for each vehicle requiring registration [~~other than a tow truck or a fee of $25 for each tow truck the carrier operates~~]; and

(3) providing the department evidence of continuing insurance or financial responsibility in an amount at least equal to the amount set by the department under Section 643.101.

SECTION 3.11. Section 643.061(b), Transportation Code, is amended to read as follows:

(b) A motor carrier applying for registration under this section must pay:

(1) a $20 fee for each vehicle registered [~~other than a tow truck or a fee of $50 for each tow truck~~] under Subsection (a)(1);

(2) a $10 fee for each vehicle registered [~~other than a tow truck or a fee of $25 for each tow truck~~] under Subsection (a)(2); and

(3) application and insurance filing fees the department by rule adopts in an amount not to exceed $100 each.

SECTION 3.12. Section 643.253(e), Transportation Code, is amended to read as follows:

(e) An offense under Subsection (b) [~~or (d)~~] is a misdemeanor punishable by a fine of not less than $200 or more than $1,000 per violation.

SECTION 3.13. Section 1(1), Chapter 528, Acts of the 76th Legislature, Regular Session, 1999 (Article 178d-1, Vernon's Texas

Civil Statutes), is amended to read as follows:

(1) "Parking facility," "parking facility owner," and "vehicle" have the meanings assigned by Section 2308.002, Occupations Code [~~684.001, Transportation Code~~].

ARTICLE 4. MISCELLANEOUS

SECTION 4.01. Section 683.012, Transportation Code, is amended by adding Subsection (f) to read as follows:

(f) In addition to the notice required under Subsection (a), if a law enforcement agency takes an abandoned motor vehicle into custody, the agency shall notify a person that files a theft report or similar report prepared by any law enforcement agency for the vehicle of that fact. The notice must be sent by regular mail on the next business day after the agency takes the vehicle into custody. The law enforcement agency shall also provide the name and address of the person that filed the theft report or similar report to the vehicle storage facility or governmental vehicle storage facility that is storing the vehicle.

ARTICLE 5. TRANSITION AND EFFECTIVE DATE

SECTION 5.01. (a) The following provisions of the Transportation Code are repealed:

(1) Section 643.001(7);

(2) Section 643.101(d);

(3) Section 643.202;

(4) Section 684.001;

(5) Section 685.001;

(6) the heading to Subchapter E, Chapter 643;

(7) the heading to Chapter 684;

(8) the headings to Subchapters A, B, and F, Chapter 684; and

(9) the heading to Chapter 685.

(b) Subchapters E and F, Chapter 2303, Occupations Code, are repealed.

SECTION 5.02. As soon as practicable after the effective date of this Act, the presiding officer of the Texas Commission of Licensing and Regulation shall make the initial appointments to the Towing and Storage Advisory Board. The presiding officer shall appoint two members to terms expiring February 1, 2009, three members to terms expiring February 1, 2011, and three members to terms expiring February 1, 2013.

SECTION 5.03. (a) As soon as practicable after the effective date of this Act, the Texas Department of Transportation and the Texas Department of Licensing and Regulation shall develop and enter into a memorandum of understanding regarding the transfer described in this section that includes a transition plan for transferring the functions performed by the Texas Transportation Commission and the Texas Department of Transportation that relate to tow trucks, towing operations, or vehicle storage facilities to the Texas Department of Licensing and Regulation. The transition plan must include a timetable with specific steps and deadlines needed to complete the transfer, and may include provisions for the extension of expiration dates for licenses.

(b) In accordance with the transition plan developed by the Texas Department of Transportation and the Texas Department of Licensing and Regulation under Subsection (a) of this section, on

January 1, 2008:

(1) all functions and activities performed by the Texas Transportation Commission and the Texas Department of Transportation relating to tow trucks, towing operations, or vehicle storage facilities immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Transportation Commission and the Texas Department of Transportation that relates to tow trucks, towing operations, or vehicle storage facilities is a rule or form of the Texas Commission of Licensing and Regulation or the Texas Department of Licensing and Regulation, as applicable, and remains in effect until amended or replaced by that commission or department;

(3) a reference in law to or an administrative rule of the Texas Transportation Commission and the Texas Department of Transportation that relates to tow trucks, towing operations, or vehicle storage facilities means the Texas Commission of Licensing and Regulation or the Texas Department of Licensing and Regulation, as applicable;

(4) a complaint, investigation, or other proceeding before the Texas Transportation Commission or the Texas Department of Transportation that is related to tow trucks, towing operations, or vehicle storage facilities is transferred without change in status to the Texas Department of Licensing and Regulation, and the Texas Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Transportation Commission and the Texas Department of

Transportation in an action or proceeding to which the Texas Transportation Commission or the Texas Department of Transportation is a party;

(5) all full-time equivalent employee positions at the Texas Department of Transportation that primarily concern the administration of tow trucks, towing operations, or vehicle storage facilities become positions at the Texas Department of Licensing and Regulation, and when filling the positions, the Texas Department of Licensing and Regulation shall give first consideration to an applicant who, as of December 31, 2007, was a full-time employee at the Texas Department of Transportation primarily involved in administering tow trucks, towing operations, or vehicle storage facilities;

(6) all money, contracts, leases, property, and obligations of the Texas Department of Transportation related to the regulation of tow trucks, towing operations, or vehicle storage facilities are transferred to the Texas Department of Licensing and Regulation;

(7) all property in the custody of the Texas Department of Transportation related to tow trucks, towing operations, or vehicle storage facilities is transferred to the Texas Department of Licensing and Regulation; and

(8) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Transportation Commission and the Texas Department of Transportation related to tow trucks, towing operations, or vehicle storage facilities is transferred to the Texas Department of Licensing and Regulation.

(c) Before January 1, 2008, the Texas Department of Transportation may agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Department of Transportation to the Texas Department of Licensing and Regulation to implement the transfer required by this Act.

(d) In the period beginning with the effective date of this Act and ending on December 31, 2007, the Texas Transportation Commission and the Texas Department of Transportation shall continue to perform functions and activities under Chapter 2303, Occupations Code, and those portions of Chapters 643 and 684, Transportation Code, that relate to tow trucks, towing operations, or vehicle storage facilities, as if those laws were not amended by this Act, and the former law is continued in effect for that purpose.

SECTION 5.04. Not later than April 1, 2008, the Texas Commission of Licensing and Regulation shall adopt rules relating to an original application for a permit or license under Chapter 2303, Occupations Code, as amended by this Act, and Chapter 2308, Occupations Code, as added by this Act.

SECTION 5.05. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2007.

(b) Section 2308.504, Occupations Code, as added by this Act, and Subchapters C and D, Chapter 2308, Occupations Code, as added by this Act, take effect September 1, 2008.

House Bill 2094
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION	CONFERENCE
No equivalent provision.	ARTICLE 1. LICENSING AND REGULATION OF TOWING AND VEHICLE STORAGE	Same as Senate version.
No equivalent provision.	SECTION 1.01. Amends Sections 2303.002(2), (3), and (4), Occupations Code. (2) "Commission" means the Texas Commission of Licensing and Regulation. (3) "Department" means the Texas Department of Licensing and Regulation. (4) "Executive director" means the executive director of the department.	Same as Senate version.
No equivalent provision.	SECTION 1.02. Section 2303.051, Occupations Code, is amended to provide that the commission shall adopt a rule that govern the administration of this chapter.	Same as Senate version.
No equivalent provision.	SECTION 1.03. Subchapter B, Chapter 2303, Occupations Code, is amended by adding Sections 2303.055, 2303.056, 2303.057, and 2303.058 to read as follows: <u>Sec. 2303.055. EXAMINATION OF CRIMINAL CONVICTION. The department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.</u> <u>Sec. 2303.056. PERIODIC AND RISK-BASED INSPECTIONS. (a) The department may enter and inspect at any time during business hours:</u> <u>(1) the place of business of any person regulated under this chapter; or</u>	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	(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. Sec. 2303.057. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter. Sec. 2303.058. ADVISORY BOARD. The Towing and Storage Advisory Board under Chapter 2308 shall advise the commission in adopting vehicle storage rules under this chapter.	
No equivalent provision.	SECTION 1.04. The heading to Section 2303.101, Occupations Code, is amended to read as follows: Sec. 2303.101. FACILITY LICENSE REQUIRED.	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
No equivalent provision.	SECTION 1.05. Subchapter C, Chapter 2303, Occupations Code, is amended by adding Section 2303.1015 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. (b) The commission shall adopt rules governing the application for and issuance of a license under this section.	
No equivalent provision.	SECTION 1.06. Sections 2303.102(a) and (b), Occupations Code, are amended to read as follows: (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 executive director. (b) The rules adopted [~~by the commission~~] under this section must require an [~~the~~] application for a facility license [~~to be made under oath and~~] to list: (1) the name and address of each partner, if the applicant is a partnership; and (2) the name and address of the president, secretary, and treasurer of the corporation, if the applicant is a corporation [~~; and~~ [~~(3) each conviction of a felony, or of a misdemeanor punishable by confinement in jail or by a fine exceeding $200, that was obtained against the applicant or a partner or officer of the applicant in the three years preceding the date of application~~].	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
No equivalent provision.	SECTION 1.07. Section 2303.151(c), Occupations Code, is amended specify that it is a defense to an action initiated by the department for a violation of this section that the operator of the facility unsuccessfully attempted in writing <u>or electronically</u> to obtain information from the governmental entity with which the vehicle is registered.	Same as Senate version.
No equivalent provision.	SECTION 1.08. Section 2303.155(b), Occupations Code, is amended to provide that the operator of a vehicle storage facility or governmental vehicle storage facility may not charge a fee under Subsection (b) to the owner of a vehicle stored or parked at the facility as a result of recovery of the vehicle after being stolen if the vehicle owner provides the operator with a copy of the police report or similar report prepared by any law enforcement agency showing that the vehicle was reported stolen.	Same as Senate version.
No equivalent provision.	SECTION 1.09. Subchapter D, Chapter 2303, Occupations Code, is amended by adding Section 2303.160 to read as follows: <u>Sec. 2303.160. DRUG TESTING OF EMPLOYEES. (a) A license holder shall establish a drug testing policy for employees of the vehicle storage facility operated by the license holder. A license holder that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted</u>	Same as Senate version.

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	by the commission. (b) The commission by rule shall adopt a model drug testing policy for use by license holders. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. The model drug testing policy must: (1) require at least one scheduled drug test each year for each employee of a vehicle storage facility who has direct contact with the public; and (2) authorize random, unannounced drug testing for employees described by Subdivision (1).	
No equivalent provision.	SECTION 1.10. Section 2303.302, Occupations Code, is amended to stipulate that a person commits an offense if the person violates the licensing requirements of this chapter or employs an individual who does not hold an appropriate license required by this chapter. Establishes that an offense under this section is a Class C misdemeanor.	Same as Senate version.
No equivalent provision.	SECTION 1.11. Subchapter G, Chapter 2303, Occupations Code, is amended by adding Sections 2303.304 and 2303.305 to read as follows: Sec. 2303.304. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates: (1) this chapter or a rule adopted under this chapter; or	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	(2) a rule or order of the executive director or commission. (b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing. Sec. 2303.305. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety. (b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.	
No equivalent provision.	SECTION 1.12. Subtitle A, Title 14, Occupations Code, is amended by adding Chapter 2308 to read as follows: CHAPTER 2308. VEHICLE TOWING SUBCHAPTER A. GENERAL PROVISIONS Sec. 2308.001. SHORT TITLE. This chapter may be cited as the Texas Towing Act. Sec. 2308.002. DEFINITIONS. In this chapter: (1) "Advisory board" means the Towing and Storage Advisory Board. (2) "Commission" means the Texas Commission of Licensing and Regulation. (3) "Consent tow" means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a	Same as Senate version.

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	person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle. (4) "Department" means the Texas Department of Licensing and Regulation. (5) "Driver's license" has the meaning assigned by Section 521.001, Transportation Code. (6) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow. (7) "Parking facility" means public or private property used, wholly or partly, for restricted or paid vehicle parking. The term includes: (A) a restricted space on a portion of an otherwise unrestricted parking facility; and (B) a commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, home, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including: (i) a portion of the right-of-way of a public roadway that is leased by a governmental entity to the parking facility owner; and (ii) the area between the facility's property line abutting a county or municipal public roadway and the center line of the roadway's drainage way or the curb of the roadway, whichever is farther from the facility's property line. (8) "Parking facility owner" means: (A) an owner or operator of a parking facility, including	

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	a lessee, employee, or agent of an owner or operator; (B) a property owners' association having control under a dedicatory instrument, as that term is defined in Section 202.001, Property Code, over assigned or unassigned parking areas; or (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. (9) "Property owners' association" has the meaning assigned by Section 202.001, Property Code. (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. (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. (12) "Towing company" means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a public roadway in this state but does not include a political subdivision of the state. (13) "Unauthorized vehicle" means a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner. (14) "Vehicle" means a device in, on, or by which a person or property may be transported on a public roadway. The term includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer but does not include a device moved by human power or used exclusively on a stationary rail or track.	

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	(15) "Vehicle owner" means a person: (A) named as the purchaser or transferee in the certificate of title issued for the vehicle under Chapter 501, Transportation Code; (B) in whose name the vehicle is registered under Chapter 502, Transportation Code, or a member of the person's immediate family; (C) who holds the vehicle through a lease agreement; (D) who is an unrecorded lienholder entitled to possess the vehicle under the terms of a chattel mortgage; or (E) who is a lienholder holding an affidavit of repossession and entitled to repossess the vehicle. (16) "Vehicle storage facility" means a vehicle storage facility, as defined by Section 2303.002, that is operated by a person who holds a license issued under Chapter 2303 to operate the facility. Sec. 2308.003. STUDY OF NONCONSENT TOWING FEES. (a) The department shall study the fees charged by license and permit holders for nonconsent tows, compliance of license and permit holders with local regulations governing towing fees, and consumer complaints related to fees for nonconsent tows. Not later than January 1, 2009, the department shall report to the legislature the findings of the study, including any recommendations for state regulation of towing fees. (b) This section expires September 1, 2009. [Sections 2308.004-2308.050 reserved for expansion] SUBCHAPTER B. ADVISORY BOARD Sec. 2308.051. TOWING AND STORAGE ADVISORY BOARD. (a) The advisory board consists	

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	of the following members appointed by the presiding officer of the commission with the approval of the commission: (1) one representative of a towing company operating in a county with a population of less than one million; (2) one representative of a towing company operating in a county with a population of one million or more; (3) one owner of a vehicle storage facility located in a county with a population of less than one million; (4) one owner of a vehicle storage facility located in a county with a population of one million or more; (5) one parking facility owner; (6) one law enforcement officer from a county with a population of less than one million; (7) one law enforcement officer from a county with a population of one million or more; and (8) one representative of property and casualty insurers who write automobile insurance in this state. (b) The advisory board must include representation for each classification of towing. (c) An appointment to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee. Sec. 2308.052. TERMS; VACANCIES. (a) Advisory board members serve terms of six years, with the terms of two or three members, as appropriate, expiring on February 1 of each odd-numbered year. (b) A member may not serve more than two full consecutive terms. (c) If a vacancy occurs during a term, the presiding	

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	officer of the commission shall appoint a replacement who meets the qualifications of the vacated position to serve for the remainder of the term. Sec. 2308.053. PRESIDING OFFICER. The presiding officer of the commission shall appoint one of the advisory board members to serve as presiding officer of the advisory board for a term of one year. The presiding officer of the advisory board may vote on any matter before the advisory board. Sec. 2308.054. COMPENSATION; REIMBURSEMENT OF EXPENSES. Advisory board members may not receive compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the advisory board, subject to the General Appropriations Act. Sec. 2308.055. MEETINGS. The advisory board shall meet twice annually and may meet at other times at the call of the presiding officer of the commission or the executive director. Sec. 2308.056. GENERAL POWERS AND DUTIES. The executive director or commission, as appropriate, may take action as necessary to administer and enforce this chapter. Sec. 2308.057. RULES. (a) The commission shall adopt rules for permitting tow trucks and licensing towing operators and towing companies. (b) The commission by rule shall adopt standards of conduct for license and permit holders under this chapter. Sec. 2308.058. FEES. The commission shall establish and collect reasonable and necessary fees in amounts	

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	sufficient to cover the costs of administering this chapter. Sec. 2308.059. 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 or permit holder is in violation of this chapter or in violation of a rule or order of the commission or executive director. (b) 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 towing company or operator; (2) the inspection history; (3) any history of complaints involving the towing company or operator; and (4) any other factor determined by the commission by rule. (c) The towing company shall pay a fee for each risk-based inspection performed under this section. The commission by rule shall set the amount of the fee. (d) In conducting an inspection under this section, the department may inspect a vehicle, a facility, business records, or any other place or thing reasonably required to enforce this chapter or a rule or order adopted under this chapter. Sec. 2308.060. POWERS AND DUTIES OF ADVISORY BOARD. The advisory board shall provide	

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	advice and recommendations to the department on technical matters relevant to the administration and enforcement of this chapter, including examination content, licensing standards, and continuing education requirements. Sec. 2308.061. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter. [Sections 2308.062-2308.100 reserved for expansion] SUBCHAPTER C. TOW TRUCK PERMIT REQUIREMENTS Sec. 2308.101. PERMIT REQUIRED. A tow truck may not be used for consent towing or nonconsent towing on a public roadway in this state unless an appropriate permit has been issued for the tow truck under this subchapter. Each tow truck requires a separate permit. Sec. 2308.102. APPLICATION REQUIREMENTS. (a) An applicant for a permit under this subchapter must submit to the department: (1) a completed application on a form prescribed by the executive director; (2) evidence of insurance or financial responsibility required under this subchapter; (3) the required fees; and (4) any other information required by the executive director. (b) The department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.	

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	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(e), Transportation Code. Sec. 2308.104. REQUIREMENTS FOR PRIVATE PROPERTY TOWING PERMIT. (a) A private property towing permit is required for a tow truck used to perform a nonconsent tow authorized by a parking facility owner under this chapter. (b) To be eligible for a private property towing permit, an applicant must submit evidence that: (1) the tow truck is equipped to tow light-duty or heavy-	

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	duty vehicles according to the manufacturer's towing guidelines; (2) the applicant has at least $300,000 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 consent towing but not for incident management towing. Sec. 2308.105. REQUIREMENTS FOR CONSENT TOWING PERMIT. (a) A consent towing permit is required for a tow truck used to perform a consent tow authorized by the vehicle owner. (b) To be eligible for a consent 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; and (2) the applicant has at least $300,000 of liability insurance for the tow truck. (c) A tow truck permitted under this section may not be used for nonconsent towing, including incident management towing and private property towing. Sec. 2308.106. DEPARTMENT APPROVAL; ISSUANCE OF PERMIT. (a) The department shall issue a permit under this subchapter to an applicant who meets the requirements for a permit. The department may deny an application if the applicant has had a permit revoked under this chapter. (b) The department shall issue a certificate containing a	

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	single unique permit number for each tow truck, regardless of whether the permit holder holds more than one permit. Sec. 2308.107. PERMIT RENEWAL. (a) A permit issued under this chapter is valid for one year. The department may adopt a system under which permits expire at different times during the year. (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 address according to the records of the department. (c) A permit holder may renew a permit under this chapter by: (1) paying a fee for each tow truck; and (2) providing to the department evidence of continuing insurance or financial responsibility in an amount required by this chapter. Sec. 2308.108. CAB CARDS. (a) The department shall issue a cab card for each tow truck issued a permit. The cab card must: (1) show the permit number of the certificate issued under Section 2308.106(b); (2) show the type of permit issued; (3) show the vehicle unit number; (4) show the vehicle identification number; and (5) contain a statement that the vehicle has been issued a permit under this subchapter. (b) The department shall issue a cab card when the department issues or renews a permit under this	

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	subchapter. (c) A permit holder must keep the cab card in the cab of each permitted tow truck. (d) The department may order a permit holder to surrender a cab card if the permit is suspended or revoked under this chapter. (e) If the department determines that the cab card system described by Subsections (a) through (c) is not an efficient means of enforcing this subchapter, the executive director by rule may adopt an alternative method that is accessible by law enforcement personnel in the field and provides for the enforcement of the permit requirements of this subchapter. (f) A cab card or a permit issued under the alternative method described in Subsection (e) must be valid for the same duration as a certificate issued under Section 2308.106. Sec. 2308.109. DISPLAY OF INFORMATION ON TOW TRUCK. (a) A permit holder shall display on each permitted tow truck: (1) the permit holder's name; (2) the permit holder's telephone number; (3) the city and state where the permit holder is located; and (4) the permit number for the tow truck. (b) The information required to be displayed must be: (1) printed in letters and numbers that are at least two inches high and in a color that contrasts with the color of the background surface; and (2) permanently affixed in conspicuous places on both	

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	sides of the tow truck. Sec. 2308.110. FINANCIAL RESPONSIBILITY. (a) A permit holder shall maintain liability insurance for each tow truck according to the requirements under this subchapter. (b) Unless state law permits a tow truck to be self-insured, any insurance required for a tow truck must be obtained from an insurer authorized to do business in this state. (c) An applicant or permit holder must file with the department evidence of insurance as required by this subchapter. (d) A permit holder shall keep evidence of insurance in a form approved by the department in the cab of each permitted tow truck. [Sections 2308.111-2308.150 reserved for expansion] SUBCHAPTER D. LICENSE REQUIREMENTS 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. Sec. 2308.152. GENERAL LICENSE APPLICATION REQUIREMENTS. An applicant for a license under this subchapter must submit to the department: (1) a completed application on a form prescribed by the executive director; (2) the required fees; and (3) any other information required by commission rule. Sec. 2308.153. INCIDENT MANAGEMENT TOWING	

HOUSE VERSION	SENATE VERSION	CONFERENCE
	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) be a licensed Texas driver; and (2) be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by the department. Sec. 2308.154. PRIVATE PROPERTY TOWING OPERATOR'S LICENSE. (a) A private property towing operator's license is required to operate a tow truck permitted under Section 2308.104. (b) An applicant for a private property towing operator's license must: (1) be a licensed Texas driver; and (2) be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by the department. Sec. 2308.155. CONSENT TOWING OPERATOR'S LICENSE. (a) A consent towing operator's license is required to operate a tow truck permitted under Section 2308.105. (b) An applicant for a consent towing operator's license must be a licensed Texas driver. Sec. 2308.156. NONTRANSFERABILITY OF LICENSE. A license issued by the executive director is valid throughout this state and is not transferable.	

HOUSE VERSION	SENATE VERSION	CONFERENCE
	Sec. 2308.157. CONTINUING EDUCATION. (a) The commission by rule shall recognize, prepare, or administer continuing education programs for license holders. Except as provided by Subsection (c), each license holder must complete a continuing education program before the license holder may renew the license holder's license. (b) A person recognized by the commission to offer a continuing education program must: (1) register with the department; and (2) comply with rules adopted by the commission relating to continuing education. (c) To renew an incident management towing operator's license the first time, a license holder must complete a professional development course relating to towing that is licensed or certified by the National Safety Council or another course approved and administered by the department under this section. Sec. 2308.158. DRUG TESTING OF TOWING OPERATORS. (a) A towing company shall establish a drug testing policy for towing operators. A towing company that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted by the commission. (b) The commission by rule shall adopt a model drug testing policy for use by a towing company. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to	

HOUSE VERSION	SENATE VERSION	CONFERENCE
	protect the rights of employees. The model drug testing policy must: (1) require at least one scheduled drug test each year for each towing operator; and (2) authorize random, unannounced drug testing for towing operators. Sec. 2308.159. LICENSE RENEWAL. (a) A license issued under this subchapter is valid for one year. The department may adopt a system under which licenses expire at different times during the year. (b) The department shall notify the license holder at least 30 days before the date a license expires. The notice must be in writing and sent to the license holder's last known address according to the records of the department. (c) A license holder may renew a license issued under this chapter by: (1) paying a renewal fee; and (2) completing continuing education as required by Section 2308.157.	
No equivalent provision.	ARTICLE 2. CONSOLIDATION OF LAWS RELATED TO TOWING	Same as Senate version.
No equivalent provision.	SECTION 2.01. Sections 643.201 and 643.203 through 643.208, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter E, Chapter 2308, Occupations Code, renumbered as Sections 2308.201 through 2308.207, Occupations Code. Added Sec. 2308.202 provides that the governing body	Same as Senate version except Section 2308.202 provides that the governing body of a political subdivision *may* regulate the fees.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	of a political subdivision *shall* regulate the fees that may be charged or collected in connection with a nonconsent tow originating in the territory of the political subdivision.	
No equivalent provision.	SECTION 2.02. Section 684.101, Transportation Code, is transferred to Subchapter E, Chapter 2308, Occupations Code, and renumbered as Section 2308.208, Occupations Code.	Same as Senate version.
No equivalent provision.	SECTION 2.03. Sections 684.011, 684.012, 684.0125, 684.013, 684.014, and 684.015, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter F, Chapter 2308, Transportation Code, renumbered as Sections 2308.251 through 2308.256, Occupations Code.	Same as Senate version.
No equivalent provision.	SECTION 2.04. Subchapter C, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter G, Chapter 2308, Occupations Code, and Sections 684.031 through 684.035, Transportation Code, are renumbered as Sections 2308.301 through 2308.305, Occupations Code.	Same as Senate version.
No equivalent provision.	SECTION 2.05. Subchapter D, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter H, Chapter 2308, Occupations Code, and Sections 684.051 through 684.054, Transportation Code, are renumbered	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	as Sections 2308.351 through 2308.354, Occupations Code.	
No equivalent provision.	SECTION 2.06. Subchapter E, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter I, Chapter 2308, Occupations Code, and Sections 684.081 through 684.087, Transportation Code, are renumbered as Sections 2308.401 through 2308.407, Occupations Code.	Same as Senate version.
SECTION 1. Section 685.007(b), Transportation Code, is amended to read as follows:	SECTION 2.07. Sections 685.002 through 685.010, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter J, Chapter 2308, Occupations Code, renumbered as Sections 2308.451 through 2308.459, Occupations Code, and amended to read as follows: SUBCHAPTER J. RIGHTS OF OWNERS AND OPERATORS OF STORED VEHICLES Sec. 2308.451. [~~685.002~~]. PAYMENT OF COST OF REMOVAL AND STORAGE OF VEHICLE. (a) If in a hearing held under this chapter the court finds that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person who requested the hearing shall pay the costs of the removal and storage. (b) If in a hearing held under this chapter the court does not find that a person or law enforcement agency authorized, with probable cause, the removal and storage	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	in a vehicle storage facility of a vehicle, the person or law enforcement agency that authorized the removal shall: (1) pay the costs of the removal and storage; or (2) reimburse the owner or operator for the cost of the removal and storage paid by the owner or operator. Sec. 2308.452 [~~685.003~~]. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO HEARING. The owner or operator of a vehicle that has been removed and placed in a vehicle storage facility without the consent of the owner or operator of the vehicle is entitled to a hearing on whether probable cause existed for the removal and placement. Sec. 2308.453 [~~685.004~~]. JURISDICTION. A hearing under this chapter shall be in the justice court having jurisdiction in the precinct in which the vehicle storage facility is located. Sec. 2308.454 [~~685.005~~]. NOTICE TO VEHICLE OWNER OR OPERATOR. (a) If before a hearing held under this chapter the owner or operator of a vehicle pays the costs of the vehicle's 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 chapter. (b) The operator of a vehicle storage facility that sends a notice under Subchapter D, Chapter 2303, [~~Occupations Code,~~] shall include with that notice a notice of the person's rights under this chapter. Sec. 2308.455 [~~685.006~~]. CONTENTS OF NOTICE.	

HOUSE VERSION	SENATE VERSION	CONFERENCE
	The notice under Section 2308.454 [~~685.005~~] must include: (1) a statement of: (A) the person's right to submit a request within 14 days for a court hearing to determine whether probable cause existed to remove the vehicle; (B) the information that a request for a hearing must contain; and (C) any filing fee for the hearing; (2) the name, address, and telephone number of the towing company that removed the vehicle; (3) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed; (4) the name, address, and telephone number of the person, property owner, or law enforcement agency that authorized the removal of the vehicle; and (5) the name, address, and telephone number of the justice court having jurisdiction in the precinct in which the vehicle storage facility is located. Sec. 2308.456 [~~685.007~~]. REQUEST FOR HEARING. (a) Except as provided by Subsection (c), a person entitled to a hearing under this chapter must deliver a written request for the hearing to the court before the 14th day after the date the vehicle was removed and placed in the vehicle storage facility, excluding Saturdays, Sundays, and legal holidays.	
(b) A request for a hearing must contain: (1) the name, address, and telephone number of the owner or operator of the vehicle;	(b) A request for a hearing must contain: (1) the name, address, and telephone number of the owner or operator of the vehicle;	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
(2) the location from which the vehicle was removed; (3) the date when the vehicle was removed; (4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal; (5) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed; (6) the name, address, and telephone number of the towing company that removed the vehicle; (7) a copy of any receipt or notification that the owner or operator received from the towing company or the vehicle storage facility; [~~and~~] (8) if the vehicle was removed from a parking facility: (A) one or more photographs that show the location and text of any sign posted at the facility restricting parking of vehicles; or (B) a statement that no sign restricting parking was posted at the parking facility; and (9) a statement explaining each reason why the owner or operator of the vehicle believes no probable cause existed to remove the vehicle.	(2) the location from which the vehicle was removed; (3) the date when the vehicle was removed; (4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal; (5) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed; (6) the name, address, and telephone number of the towing company that removed the vehicle; (7) a copy of any receipt or notification that the owner or operator received from the towing company or the vehicle storage facility; and (8) if the vehicle was removed from a parking facility: (A) one or more photographs that show the location and text of any sign posted at the facility restricting parking of vehicles; or (B) a statement that no sign restricting parking was posted at the parking facility.	
No equivalent provision.	(c) If notice was not given under Section 2308.454 [~~685.005~~], the 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.	Same as Senate version.
No equivalent provision.	(d) A person who fails to deliver a request in accordance with Subsection (a) waives the right to a hearing.	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	Sec. 2308.457 [~~685.008~~]. FILING FEE AUTHORIZED. The court may charge a filing fee of $20 for a hearing under this chapter.	
SECTION 2. Sections 685.009(a), (b), and (e), Transportation Code, are amended to read as follows: (a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing. (b) The court shall notify the person who requested the hearing, [~~and~~] the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure [~~by registered or certified mail~~]. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.	SECTION 2.07. Sec. 2308.458 [~~685.009~~]. HEARING. (a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing. (b) The court shall notify the person who requested the hearing, [~~and~~] the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure [~~by registered or certified mail~~]. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing. (b-1) At a hearing under this section: (1) the burden of proof is on the person who requested the hearing; and (2) hearsay evidence is admissible if it is considered otherwise reliable by the justice of the peace. (c) The issues in a hearing 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	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	subdivision under Section 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~]; (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 [~~643.204~~] or 2308.204 [~~643.205~~]; or (4) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount filed with the department under Section 2308.206 [~~643.207~~]. (d) The court shall make written findings of fact and a conclusion of law.	
(e) The court may award: (1) court costs to the prevailing party; (2) the reasonable cost of photographs submitted under Section 685.007(b)(8) to a vehicle owner or operator who is the prevailing party; [~~and~~] (3) an amount equal to the amount that the towing charge exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303, Occupations Code; and (4) reimbursement of fees paid for vehicle towing and storage.	(e) The court may award: (1) court costs to the prevailing party; (2) the reasonable cost of photographs submitted under Section 2308.456(b)(8) [~~685.007(b)(8)~~] to a vehicle owner or operator who is the prevailing party; [~~and~~] (3) an amount equal to the amount that the towing charge exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303; and (4) reimbursement of fees paid for vehicle towing and storage [~~, Occupations Code~~]. Sec. 2308.459 [~~685.010~~]. APPEAL. An appeal from a hearing under this chapter is governed by the rules of procedure applicable to civil cases in justice court, except that no appeal bond may be required by the court.	
SECTION 3. Chapter 685, Transportation Code, is amended by adding Section 685.011 to provide that an	SECTION 2.08. Same as the House version except specifies for the enforcement of judgment for *a debt*.	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
award under this chapter may be enforced by any means available for the enforcement of judgment for *debts*.		
No equivalent provision.	SECTION 2.09. Chapter 2308, Occupations Code, is amended by adding Subchapter K to read as follows: SUBCHAPTER K. ENFORCEMENT Sec. 2308.501. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates: (1) this chapter or a rule adopted under this chapter; or (2) a rule or order of the executive director or commission. (b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing. Sec. 2308.502. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety. (b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352. Sec. 2308.503. SANCTIONS. The department may impose sanctions as provided by Section 51.353. Sec. 2308.504. CRIMINAL PENALTY; LICENSING.	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	(a) A person commits an offense if the person: (1) violates the permitting or licensing requirements of this chapter; (2) performs towing without a license to perform towing in this state; (3) employs an individual who does not hold the appropriate license required by this chapter; or (4) falsifies a certification or training. (b) An offense under this section is a Class C misdemeanor.	
No equivalent provision.	SECTION 2.10. Section 643.253(d), Transportation Code, is transferred to Subchapter K, Chapter 2308, Occupations Code, renumbered as Section 2308.505, Occupations Code, and amended. Among other provisions, establishes that an offense under this section is a misdemeanor punishable by a fine of not less than $200 or more than $1,000 per violation. Makes conforming changes.	Same as Senate version.
No equivalent provision.	ARTICLE 3. CONFORMING AMENDMENTS	Same as Senate version.
No equivalent provision.	SECTION 3.01-3.13.	Same as Senate version.
No equivalent provision.	No equivalent provision.	ARTICLE 4. MISCELLANEOUS
No equivalent provision.	No equivalent provision.	SECTION 4.01. Section 683.012, Transportation Code, is amended by adding Subsection (f) to read as follows: (f) In addition to the notice required under Subsection (a), if a law enforcement agency takes an abandoned

HOUSE VERSION	SENATE VERSION	CONFERENCE
		motor vehicle into custody, the agency shall notify a person that files a theft report or similar report prepared by any law enforcement agency for the vehicle of that fact. The notice must be sent by regular mail on the next business day after the agency takes the vehicle into custody. The law enforcement agency shall also provide the name and address of the person that filed the theft report or similar report to the vehicle storage facility or governmental vehicle storage facility that is storing the vehicle.
No equivalent provision.	ARTICLE 4. TRANSITION AND EFFECTIVE DATE	ARTICLE 5. Same as Senate version.
No equivalent provision.	SECTION 4.01-4.04.	Same as Senate version.
SECTION 4. Saving provision.	No equivalent provision.	Same as Senate version.
SECTION 5. Effective date.	SECTION 4.05. Same as House version except Section 2308.504, Occupations Code, as added by this Act, and Subchapters C and D, Chapter 2308, Occupations Code, as added by this Act, take effect September 1, 2008.	Same as Senate version.

CONFERENCE COMMITTEE REPORT FORM

DW7

Austin, Texas

ADOPTED May 26, 2007
29-1
MAY 27 2007
Secretary of the Senate

RECEIVED
SECRETARY OF SENATE
7 MAY 26 P6:02

Date

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 2094 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Senator John Carona, Chair	Representative Fred Hill, Chair
Senator Craig Estes	Representative Joseph "Joe" Deshotel
Senator Rodney Ellis	Representative Jim Jackson
Senator Jeff Wentworth	Representative Mike Krusee
On the part of the Senate Senator John Whitmire	On the part of the House Representative Larry Phillips

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

Filed 5/26/07 5:30 pm

CONFERENCE COMMITTEE REPORT

H.B. No. 2094

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the towing and storage of vehicles.

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

ARTICLE 1. LICENSING AND REGULATION OF TOWING AND VEHICLE STORAGE

SECTION 1.01. Sections 2303.002(2), (3), and (4), Occupations Code, are amended to read as follows:

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

(3) "Department" means the Texas Department of Licensing and Regulation [~~Transportation~~].

(4) "Executive director [~~Director~~]" means the executive director of the department [~~or a person designated by the executive director who is not below the rank of division or special office director~~].

SECTION 1.02. Section 2303.051, Occupations Code, is amended to read as follows:

Sec. 2303.051. RULEMAKING: LICENSE REQUIREMENTS[~~; SANCTIONS~~]. The commission shall adopt rules that:

(1) establish the requirements for a person to be licensed to operate a vehicle storage facility to ensure that the facility maintains adequate standards for the care of stored vehicles; [~~and~~]

(2) relate to the administrative sanctions that may be imposed on a person licensed under this chapter;

(3) govern the administration of this chapter.

SECTION 1.03. Subchapter B, Chapter 2303, Occupations Code, is amended by adding Sections 2303.055, 2303.056, 2303.057, and 2303.058 to read as follows:

Sec. 2303.055. EXAMINATION OF CRIMINAL CONVICTION. The department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.

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.

Sec. 2303.057. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter.

Sec. 2303.058. ADVISORY BOARD. The Towing and Storage Advisory Board under Chapter 2308 shall advise the commission in adopting vehicle storage rules under this chapter.

SECTION 1.04. The heading to Section 2303.101, Occupations Code, is amended to read as follows:

Sec. 2303.101. FACILITY LICENSE REQUIRED.

SECTION 1.05. Subchapter C, Chapter 2303, Occupations Code, is amended by adding Section 2303.1015 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.

(b) The commission shall adopt rules governing the application for and issuance of a license under this section.

SECTION 1.06. Sections 2303.102(a) and (b), Occupations Code, are amended to read as follows:

(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 executive director.

(b) The rules adopted [~~by the commission~~] under this section must require an [~~the~~] application for a facility license [~~to be made under oath and~~] to list:

(1) the name and address of each partner, if the applicant is a partnership; and

(2) the name and address of the president, secretary, and treasurer of the corporation, if the applicant is a corporation [~~; and~~

[~~(3) each conviction of a felony, or of a misdemeanor punishable by confinement in jail or by a fine exceeding $200, that was obtained against the applicant or a partner or officer of the applicant in the three years preceding the date of application~~].

SECTION 1.07. Section 2303.151(c), Occupations Code, is amended to read as follows:

(c) It is a defense to an action initiated by the department for a violation of this section that the operator of the facility unsuccessfully attempted in writing or electronically to obtain information from the governmental entity with which the vehicle is registered.

SECTION 1.08. Section 2303.155(b), Occupations Code, is amended to read as follows:

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

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

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

(A) is taken by or at the direction of the owner 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) $35 for each day or part of a day the vehicle is stored at the facility if the vehicle is longer than 25 feet; [~~and~~]

(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.

SECTION 1.09. Subchapter D, Chapter 2303, Occupations Code, is amended by adding Section 2303.160 to read as follows:

Sec. 2303.160. DRUG TESTING OF EMPLOYEES. (a) A license holder shall establish a drug testing policy for employees of the vehicle storage facility operated by the license holder. A license holder that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted by the commission.

(b) The commission by rule shall adopt a model drug testing policy for use by license holders. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. The model drug testing policy must:

(1) require at least one scheduled drug test each year for each employee of a vehicle storage facility who has direct contact with the public; and

(2) authorize random, unannounced drug testing for employees described by Subdivision (1).

SECTION 1.10. Section 2303.302, Occupations Code, is amended to read as follows:

Sec. 2303.302. CRIMINAL PENALTIES. (a) A person commits an offense if the person:

(1) violates the licensing requirements of [~~operates a vehicle storage facility for which a license has not been issued under~~] this chapter; or

(2) employs an individual who does not hold an appropriate license required by [~~violates a rule adopted by the commission under~~] this chapter.

(b) An offense under this section is a Class C misdemeanor [~~punishable by a fine of not less than $200 and not more than $500~~].

[~~(c) A person commits a separate offense for each day the person violates this section.~~]

SECTION 1.11. Subchapter G, Chapter 2303, Occupations Code, is amended by adding Sections 2303.304 and 2303.305 to read as follows:

Sec. 2303.304. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates:

(1) this chapter or a rule adopted under this chapter; or

(2) a rule or order of the executive director or commission.

(b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 2303.305. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

SECTION 1.12. Subtitle A, Title 14, Occupations Code, is amended by adding Chapter 2308 to read as follows:

CHAPTER 2308. VEHICLE TOWING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2308.001. SHORT TITLE. This chapter may be cited as the Texas Towing Act.

Sec. 2308.002. DEFINITIONS. In this chapter:

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

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

(3) "Consent tow" means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.

(4) "Department" means the Texas Department of Licensing and Regulation.

(5) "Driver's license" has the meaning assigned by Section 521.001, Transportation Code.

(6) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow.

(7) "Parking facility" means public or private property used, wholly or partly, for restricted or paid vehicle parking. The term includes:

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

(B) a commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, home, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including:

(i) a portion of the right-of-way of a

public roadway that is leased by a governmental entity to the parking facility owner; and

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

(8) "Parking facility owner" means:

(A) an owner or operator of a parking facility, including a lessee, employee, or agent of an owner or operator;

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

(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.

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

(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.

(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.

(12) "Towing company" means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a

public roadway in this state but does not include a political subdivision of the state.

(13) "Unauthorized vehicle" means a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner.

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

(15) "Vehicle owner" means a person:

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

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

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

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

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

(16) "Vehicle storage facility" means a vehicle storage facility, as defined by Section 2303.002, that is operated by a person who holds a license issued under Chapter 2303 to operate

the facility.

Sec. 2308.003. STUDY OF NONCONSENT TOWING FEES. (a) The department shall study the fees charged by license and permit holders for nonconsent tows, compliance of license and permit holders with local regulations governing towing fees, and consumer complaints related to fees for nonconsent tows. Not later than January 1, 2009, the department shall report to the legislature the findings of the study, including any recommendations for state regulation of towing fees.

(b) This section expires September 1, 2009.

[Sections 2308.004-2308.050 reserved for expansion]

SUBCHAPTER B. ADVISORY BOARD

Sec. 2308.051. TOWING AND STORAGE ADVISORY BOARD. (a) The advisory board consists of the following members appointed by the presiding officer of the commission with the approval of the commission:

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

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

(3) one owner of a vehicle storage facility located in a county with a population of less than one million;

(4) one owner of a vehicle storage facility located in a county with a population of one million or more;

(5) one parking facility owner;

(6) one law enforcement officer from a county with a population of less than one million;

(7) one law enforcement officer from a county with a population of one million or more; and

(8) one representative of property and casualty insurers who write automobile insurance in this state.

(b) The advisory board must include representation for each classification of towing.

(c) An appointment to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 2308.052. TERMS; VACANCIES. (a) Advisory board members serve terms of six years, with the terms of two or three members, as appropriate, expiring on February 1 of each odd-numbered year.

(b) A member may not serve more than two full consecutive terms.

(c) If a vacancy occurs during a term, the presiding officer of the commission shall appoint a replacement who meets the qualifications of the vacated position to serve for the remainder of the term.

Sec. 2308.053. PRESIDING OFFICER. The presiding officer of the commission shall appoint one of the advisory board members to serve as presiding officer of the advisory board for a term of one year. The presiding officer of the advisory board may vote on any matter before the advisory board.

Sec. 2308.054. COMPENSATION; REIMBURSEMENT OF EXPENSES. Advisory board members may not receive compensation but are entitled to reimbursement for actual and necessary expenses

incurred in performing the functions of the advisory board, subject to the General Appropriations Act.

Sec. 2308.055. MEETINGS. The advisory board shall meet twice annually and may meet at other times at the call of the presiding officer of the commission or the executive director.

Sec. 2308.056. GENERAL POWERS AND DUTIES. The executive director or commission, as appropriate, may take action as necessary to administer and enforce this chapter.

Sec. 2308.057. RULES. (a) The commission shall adopt rules for permitting tow trucks and licensing towing operators and towing companies.

(b) The commission by rule shall adopt standards of conduct for license and permit holders under this chapter.

Sec. 2308.058. FEES. The commission shall establish and collect reasonable and necessary fees in amounts sufficient to cover the costs of administering this chapter.

Sec. 2308.059. 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 or permit holder is in violation of this chapter or in violation of a rule or order of the commission or executive director.

(b) 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 towing company or operator;

(2) the inspection history;

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

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

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

(d) In conducting an inspection under this section, the department may inspect a vehicle, a facility, business records, or any other place or thing reasonably required to enforce this chapter or a rule or order adopted under this chapter.

Sec. 2308.060. POWERS AND DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration and enforcement of this chapter, including examination content, licensing standards, and continuing education requirements.

Sec. 2308.061. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter.

[Sections 2308.062-2308.100 reserved for expansion]

SUBCHAPTER C. TOW TRUCK PERMIT REQUIREMENTS

Sec. 2308.101. PERMIT REQUIRED. A tow truck may not be used for consent towing or nonconsent towing on a public roadway in this state unless an appropriate permit has been issued for the tow truck

under this subchapter. Each tow truck requires a separate permit.

Sec. 2308.102. APPLICATION REQUIREMENTS. (a) An applicant for a permit under this subchapter must submit to the department:

(1) a completed application on a form prescribed by the executive director;

(2) evidence of insurance or financial responsibility required under this subchapter;

(3) the required fees; and

(4) any other information required by the executive director.

(b) The department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.

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(e), Transportation Code.

Sec. 2308.104. REQUIREMENTS FOR PRIVATE PROPERTY TOWING PERMIT. (a) A private property towing permit is required for a tow truck used to perform a nonconsent tow authorized by a parking facility owner under this chapter.

(b) To be eligible for a private property 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 $300,000 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 consent towing but not for incident management towing.

Sec. 2308.105. REQUIREMENTS FOR CONSENT TOWING PERMIT. (a) A consent towing permit is required for a tow truck used to perform a consent tow authorized by the vehicle owner.

(b) To be eligible for a consent 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; and

(2) the applicant has at least $300,000 of liability insurance for the tow truck.

(c) A tow truck permitted under this section may not be used for nonconsent towing, including incident management towing and private property towing.

Sec. 2308.106. DEPARTMENT APPROVAL; ISSUANCE OF PERMIT. (a) The department shall issue a permit under this subchapter to an applicant who meets the requirements for a permit. The department may deny an application if the applicant has had a permit revoked under this chapter.

(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.

Sec. 2308.107. PERMIT RENEWAL. (a) A permit issued under this chapter is valid for one year. The department may adopt a system under which permits expire at different times during the year.

(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 address according to the records of the department.

(c) A permit holder may renew a permit under this chapter by:

(1) paying a fee for each tow truck; and

(2) providing to the department evidence of continuing

insurance or financial responsibility in an amount required by this chapter.

Sec. 2308.108. CAB CARDS. (a) The department shall issue a cab card for each tow truck issued a permit. The cab card must:

(1) show the permit number of the certificate issued under Section 2308.106(b);

(2) show the type of permit issued;

(3) show the vehicle unit number;

(4) show the vehicle identification number; and

(5) contain a statement that the vehicle has been issued a permit under this subchapter.

(b) The department shall issue a cab card when the department issues or renews a permit under this subchapter.

(c) A permit holder must keep the cab card in the cab of each permitted tow truck.

(d) The department may order a permit holder to surrender a cab card if the permit is suspended or revoked under this chapter.

(e) If the department determines that the cab card system described by Subsections (a) through (c) is not an efficient means of enforcing this subchapter, the executive director by rule may adopt an alternative method that is accessible by law enforcement personnel in the field and provides for the enforcement of the permit requirements of this subchapter.

(f) A cab card or a permit issued under the alternative method described in Subsection (e) must be valid for the same duration as a certificate issued under Section 2308.106.

Sec. 2308.109. DISPLAY OF INFORMATION ON TOW TRUCK. (a) A

permit holder shall display on each permitted tow truck:

(1) the permit holder's name;

(2) the permit holder's telephone number;

(3) the city and state where the permit holder is located; and

(4) the permit number for the tow truck.

(b) The information required to be displayed must be:

(1) printed in letters and numbers that are at least two inches high and in a color that contrasts with the color of the background surface; and

(2) permanently affixed in conspicuous places on both sides of the tow truck.

Sec. 2308.110. FINANCIAL RESPONSIBILITY. (a) A permit holder shall maintain liability insurance for each tow truck according to the requirements under this subchapter.

(b) Unless state law permits a tow truck to be self-insured, any insurance required for a tow truck must be obtained from an insurer authorized to do business in this state.

(c) An applicant or permit holder must file with the department evidence of insurance as required by this subchapter.

(d) A permit holder shall keep evidence of insurance in a form approved by the department in the cab of each permitted tow truck.

[Sections 2308.111-2308.150 reserved for expansion]

SUBCHAPTER D. LICENSE REQUIREMENTS

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.

Sec. 2308.152. GENERAL LICENSE APPLICATION REQUIREMENTS. An applicant for a license under this subchapter must submit to the department:

(1) a completed application on a form prescribed by the executive director;

(2) the required fees; and

(3) any other information required by commission rule.

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) be a licensed Texas driver; and

(2) be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by the department.

Sec. 2308.154. PRIVATE PROPERTY TOWING OPERATOR'S LICENSE. (a) A private property towing operator's license is required to operate a tow truck permitted under Section 2308.104.

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

(1) be a licensed Texas driver; and

(2) be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by the department.

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

(b) An applicant for a consent towing operator's license must be a licensed Texas driver.

Sec. 2308.156. NONTRANSFERABILITY OF LICENSE. A license issued by the executive director is valid throughout this state and is not transferable.

Sec. 2308.157. CONTINUING EDUCATION. (a) The commission by rule shall recognize, prepare, or administer continuing education programs for license holders. Except as provided by Subsection (c), each license holder must complete a continuing education program before the license holder may renew the license holder's license.

(b) A person recognized by the commission to offer a continuing education program must:

(1) register with the department; and

(2) comply with rules adopted by the commission relating to continuing education.

(c) To renew an incident management towing operator's license the first time, a license holder must complete a professional development course relating to towing that is licensed or certified by the National Safety Council or another course approved and administered by the department under this section.

Sec. 2308.158. DRUG TESTING OF TOWING OPERATORS. (a) A towing company shall establish a drug testing policy for towing

operators. A towing company that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted by the commission.

(b) The commission by rule shall adopt a model drug testing policy for use by a towing company. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. The model drug testing policy must:

(1) require at least one scheduled drug test each year for each towing operator; and

(2) authorize random, unannounced drug testing for towing operators.

Sec. 2308.159. LICENSE RENEWAL. (a) A license issued under this subchapter is valid for one year. The department may adopt a system under which licenses expire at different times during the year.

(b) The department shall notify the license holder at least 30 days before the date a license expires. The notice must be in writing and sent to the license holder's last known address according to the records of the department.

(c) A license holder may renew a license issued under this chapter by:

(1) paying a renewal fee; and

(2) completing continuing education as required by Section 2308.157.

ARTICLE 2. CONSOLIDATION OF LAWS RELATED TO TOWING

SECTION 2.01. Sections 643.201 and 643.203 through 643.208, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter E, Chapter 2308, Occupations Code, renumbered as Sections 2308.201 through 2308.207, Occupations Code, and amended to read as follows:

SUBCHAPTER E. LOCAL REGULATION OF TOWING

Sec. 2308.201 [~~643.201~~]. TOW TRUCK REGULATION BY POLITICAL SUBDIVISIONS. (a) A [~~In addition to the registration requirements of Subchapter B, a~~] political subdivision of this state may regulate the operation of a tow truck to the extent allowed by federal law, except that a political subdivision may not issue a more restrictive regulation for the use of lighting equipment on a tow truck than is imposed by Title 7, Transportation Code [~~this title~~].

(b) A political subdivision may not require the registration of a tow truck that performs consent tows in the political subdivision unless the owner of the tow truck has a place of business in the territory of the political subdivision.

(c) A political subdivision may require the registration of a tow truck that performs a nonconsent tow in the political subdivision, regardless of whether the owner of the tow truck has a place of business in the territory of the political subdivision.

(d) A political subdivision may not require a person who holds a driver's license or commercial driver's license to obtain a license or permit for operating a tow truck unless the person performs nonconsent tows in the territory of the political

subdivision. A fee charged for a license or permit may not exceed $15.

[~~(c) In this section:~~

[~~(1) "Commercial driver's license" has the meaning assigned by Section 522.003.~~

[~~(2) "Consent tow" means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.~~

[~~(3) "Driver's license" has the meaning assigned by Section 521.001.~~

[~~(4) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow.~~]

Sec. 2308.202 [~~643.203~~]. REGULATION BY POLITICAL SUBDIVISIONS OF FEES FOR NONCONSENT TOWS. The governing body of a political subdivision may regulate the fees that may be charged or collected in connection with a nonconsent tow originating in the territory of the political subdivision.

Sec. 2308.203 [~~643.204~~]. TOWING FEE STUDIES. (a) The governing body of a political subdivision that regulates nonconsent tow fees shall establish procedures by which a towing company may request that a towing fee study be performed.

(b) The governing body of the political subdivision shall establish or amend the allowable fees for nonconsent tows at amounts that represent the fair value of the services of a towing

company and are reasonably related to any financial or accounting information provided to the governing body.

Sec. 2308.204 [~~643.205~~]. FEES FOR NONCONSENT TOWS IN OTHER AREAS. (a) In an area in which no political subdivision regulates the fees that may be charged or collected for a nonconsent tow from private property, a towing company may charge and collect a fee for the tow of a motor vehicle from private property in an amount not to exceed an amount equal to 150 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.

(b) A towing company may charge and collect a fee for the tow of a vehicle, with a gross vehicle weight rating in excess of 26,000 pounds, from private property in an amount not to exceed an amount equal to 125 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.

Sec. 2308.205 [~~643.206~~]. STORAGE OF TOWED VEHICLES. (a) A towing company that makes a nonconsent tow shall tow the vehicle to a vehicle storage facility that is operated by a person who holds a license to operate the facility under Chapter 2303, [~~Occupations Code,~~] unless the towing company agrees to take the vehicle to a location designated by the vehicle's owner.

(b) A storage or notification fee imposed in connection with a motor vehicle towed to a vehicle storage facility is governed by Chapter 2303[~~, Occupations Code~~].

(c) Except as provided by this chapter, Article 18.23, Code of Criminal Procedure, or Chapter 2303[~~, Occupations Code~~], a fee may not be charged or collected without the prior written consent of the vehicle owner or operator.

Sec. 2308.206 [~~643.207~~]. REQUIRED FILING. (a) Before January 31 of each year, a towing company shall file with the department a schedule showing each towing fee that the towing company charges or collects in connection with a nonconsent tow.

(b) If a political subdivision begins regulating nonconsent tow fees, the fees shall be reported to the department by the towing company before the 30th day after the regulation goes into effect.

(c) Any changes in nonconsent tow fees regulated by a political subdivision shall be reported to the department by the towing company before the 30th day after the effective date of the change.

(d) The department shall make towing fee schedules available on the department's Internet website. The department shall make no determination as to the reasonableness of a towing fee schedule.

(e) A license or permit holder may not charge a fee for a nonconsent tow that is greater than the fee listed in the schedule most recently submitted to the department under this section.

Sec. 2308.207 [~~643.208~~]. REQUIRED POSTING. (a) All [~~towing and~~] storage fees shall be posted at the licensed vehicle storage facility to which the motor vehicle has been delivered and shall be posted in view of the person who claims the vehicle.

(b) A vehicle storage facility accepting a nonconsent towed

vehicle shall post a sign in one inch letters stating "Nonconsent tow fees schedules available on request." The vehicle storage facility shall provide a copy of a nonconsent towing fees schedule on request.

SECTION 2.02. Section 684.101, Transportation Code, is transferred to Subchapter E, Chapter 2308, Occupations Code, and renumbered as Section 2308.208, Occupations Code, to read as follows:

Sec. 2308.208 [~~684.101~~]. MUNICIPAL ORDINANCE REGULATING UNAUTHORIZED VEHICLES. A municipality may adopt an ordinance that is identical to this chapter or that imposes additional requirements that exceed the minimum standards of this chapter but may not adopt an ordinance conflicting with this chapter.

SECTION 2.03. Sections 684.011, 684.012, 684.0125, 684.013, 684.014, and 684.015, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter F, Chapter 2308, Transportation Code, renumbered as Sections 2308.251 through 2308.256, Occupations Code, and amended to read as follows:

SUBCHAPTER F. UNAUTHORIZED VEHICLES

Sec. 2308.251 [~~684.011~~]. PROHIBITION AGAINST UNATTENDED VEHICLES IN CERTAIN AREAS. (a) The owner or operator of a vehicle may not 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;

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

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

(4) does not display the special license plates issued under Section 504.201, Transportation Code, or the disabled parking placard issued under Chapter 681, Transportation Code, for a vehicle transporting a disabled person and is in a parking space that is designated for the exclusive use of a vehicle transporting a disabled person.

(b) Subsection (a) does not apply to an emergency vehicle that is owned by, or the operation of which is authorized by, a governmental entity.

(c) If a government regulation governing the marking of a fire lane applies to a parking facility, a fire lane in the facility must be marked as provided by the regulation. If a government regulation on the marking of a fire lane does not apply to the parking facility, all curbs of fire lanes must be painted red and be conspicuously and legibly marked with the warning "FIRE LANE--TOW AWAY ZONE" in white letters at least three inches tall, at intervals not exceeding 50 feet.

Sec. 2308.252 [~~684.012~~]. REMOVAL AND STORAGE OF UNAUTHORIZED VEHICLE. (a) A parking facility owner may, without the consent of the owner or operator of an unauthorized vehicle, cause the vehicle and any property on or in the vehicle to be removed and stored at a vehicle storage facility at the vehicle owner's or operator's expense if:

(1) signs that comply with Subchapter G [~~C~~] prohibiting unauthorized vehicles are located on the parking

facility at the time of towing and for the preceding 24 hours and remain installed at the time of towing;

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

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

(4) the vehicle is:

(A) left in violation of Section 2308.251 [~~684.011~~] or 2308.253 [~~684.0125~~]; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility [~~and the removal is approved by a peace officer~~].

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

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

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

(B) a description of all other unauthorized areas in the parking facility;

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

(D) a telephone number that is answered 24 hours

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

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

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

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

(2) describe all other unauthorized areas in the parking facility;

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

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

(d) The mailing of a notice under Subsection (b)(2) is not required if after the notice is attached under Subsection (b)(1) the owner or operator of the vehicle leaves the vehicle in another location where parking is unauthorized for the vehicle according to the notice.

Sec. 2308.253 [~~684.0125~~]. UNATTENDED VEHICLES ON PARKING FACILITY OF APARTMENT COMPLEX; REMOVAL AND STORAGE OF VEHICLES.

(a) This section applies only to a parking facility serving or adjacent to an apartment complex consisting of one or more residential apartment units and any adjacent real property serving the apartment complex.

(b) The owner or operator of a vehicle may not leave unattended on a parking facility a vehicle that:

(1) obstructs a gate that is designed or intended for the use of pedestrians or vehicles;

(2) obstructs pedestrian or vehicular access to an area that is used for the placement of a garbage or refuse receptacle used in common by residents of the apartment complex;

(3) is in or obstructs a restricted parking area or parking space designated under Subchapter G [~~C~~], including a space designated for the use of employees or maintenance personnel of the parking facility or apartment complex;

(4) is in a tow away zone, other than a fire lane covered by Section 2308.251(c) [~~684.011(c)~~], that is brightly painted and is conspicuously and legibly marked with the warning "TOW AWAY ZONE" in contrasting letters at least three inches tall;

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

(6) is leaking a fluid that presents a hazard or threat to persons or property.

(c) A parking facility owner may not have an emergency

vehicle described by Section 2308.251(b) [~~684.011(b)~~] removed from the parking facility.

(d) Except as provided by a contract described by Subsection (e), a parking facility owner may not have a vehicle removed from the parking facility merely because the vehicle does not display:

(1) 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; or

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

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

(1) delivered in person to the owner or operator of the vehicle; or

(2) sent by certified mail, return receipt requested, to that owner or operator.

(f) This section may not be construed:

(1) to authorize the owner or operator of a vehicle to leave an unattended vehicle on property that is not designed or

intended for the parking of vehicles; or

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

(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.

Sec. 2308.254 [~~684.013~~]. LIMITATION ON PARKING FACILITY OWNER'S AUTHORITY TO REMOVE UNAUTHORIZED VEHICLE. A parking facility owner may not have an unauthorized vehicle removed from the facility except:

(1) as provided by this chapter or a municipal ordinance that complies with Section 2308.208 [~~684.101~~]; or

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

Sec. 2308.255 [~~684.014~~]. TOWING COMPANY'S AUTHORITY TO REMOVE AND STORE UNAUTHORIZED VEHICLE. (a) A towing company that is insured as provided by Subsection (c) may, without the consent of an owner or operator of an unauthorized vehicle, remove and store the vehicle at a vehicle storage facility at the expense of the owner or operator of the vehicle if:

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

(A) the parking facility owner has installed the signs required by Section 2308.252(a)(1) [~~684.012(a)(1)~~]; or

(B) the owner or operator received notice under Section 2308.252(a)(2) [~~684.012(a)(2)~~] or the parking facility

owner gave notice complying with Section 2308.252(a)(3) [~~684.012(a)(3)~~]; or

(2) the vehicle is:

(A) left in violation of Section 2308.251 [~~684.011~~]; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility and the removal is approved by a peace officer.

(b) A towing company may not remove an unauthorized vehicle except under:

(1) this chapter;

(2) a municipal ordinance that complies with Section 2308.208 [~~684.101~~]; or

(3) the direction of a peace officer or the owner or operator of the vehicle.

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

(d) A towing company may remove and store a vehicle under Subsection (a) only if the parking facility owner:

(1) requests that the towing company remove and store the specific vehicle; or

(2) has a standing written agreement with the towing company to enforce parking restrictions in the parking facility from which the vehicle will be removed.

Sec. 2308.256 [~~684.015~~]. VEHICLE STORAGE FACILITY'S DUTY TO REPORT AFTER ACCEPTING UNAUTHORIZED VEHICLE. (a) A vehicle

storage facility accepting a vehicle that is towed under this chapter shall within two hours after receiving the vehicle report to the police department of the municipality in which the parking facility is located, or, if the parking facility is not located in a municipality having a police department, to the sheriff of the county in which the parking facility is located:

(1) a general description of the vehicle;

(2) the state and number of the vehicle's license plate, if any;

(3) the vehicle identification number of the vehicle, if it can be ascertained;

(4) the location from which the vehicle was towed; and

(5) the name and location of the vehicle storage facility where the vehicle is being stored.

(b) The report required by this section must be made by telephone or delivered personally or by facsimile.

SECTION 2.04. Subchapter C, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter G, Chapter 2308, Occupations Code, and Sections 684.031 through 684.035, Transportation Code, are renumbered as Sections 2308.301 through 2308.305, Occupations Code, and amended to read as follows:

SUBCHAPTER G [~~C~~]. SIGNS PROHIBITING UNAUTHORIZED VEHICLES AND DESIGNATING RESTRICTED AREAS

Sec. 2308.301 [~~684.031~~]. GENERAL REQUIREMENTS FOR SIGN PROHIBITING UNAUTHORIZED VEHICLES. (a) Except as provided by Subsection (a)(2)(B) and Section 2308.304 [~~684.034~~] or 2308.305

[~~684.035~~] an unauthorized vehicle may not be towed under Section 2308.252(a)(1) [~~684.012(a)(1)~~] unless a sign prohibiting unauthorized vehicles on a parking facility is:

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

(2) located:

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

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

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

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

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

(4) installed on the parking facility; and

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

(b) Except as provided by Section 2308.305 [~~684.035~~], an unauthorized vehicle may be towed under Section 2308.252(a)(1) [~~684.012(a)(1)~~] 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 "Unauthorized Vehicles Will Be Towed at Owner's or Operator's Expense";

(6) contains a statement of the days and hours of towing 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 the vehicle.

Sec. 2308.302 [~~684.032~~]. COLOR, LAYOUT, AND LETTERING HEIGHT REQUIREMENTS. (a) Except as provided by Section 2308.305 [~~684.035~~], each sign required by this chapter must comply with the color, layout, and lettering height requirements of this section.

(b) A bright red international towing symbol, which is a solid silhouette of a tow truck towing a vehicle on a generally rectangular white background, at least four inches in height, must be on the uppermost portion of a sign or on a separate sign placed immediately above the sign.

(c) The portion of the sign immediately below the international towing symbol must contain the words "Towing Enforced" or the information provided by Section 2308.301(b)(4) [~~684.031(b)(4)~~] in lettering at least two inches in height. The lettering on this portion of the sign must consist of white letters on a bright red background.

(d) Except as provided by Subsection (e), the next lower portion of the sign must contain the remaining information required by Section 2308.301(b) [~~684.031(b)~~] displayed in bright red letters at least one inch in height on a white background.

(e) The bottommost portion of the sign must contain the telephone number required by Section 2308.301(b) [~~684.031(b)~~], in lettering at least one inch in height and may, if the facility owner chooses or if an applicable municipal ordinance requires, include the name and address of the storage facility to which an unauthorized vehicle will be removed. The lettering on this portion of the sign must consist of white letters on a bright red background.

Sec. 2308.303 [~~684.033~~]. TELEPHONE NUMBER FOR LOCATING TOWED VEHICLE REQUIRED. If a parking facility owner posts a sign described by Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~], the owner of a vehicle that is towed from the facility under this chapter must be able to locate the vehicle by calling the telephone number on the sign.

Sec. 2308.304 [~~684.034~~]. DESIGNATION OF RESTRICTED PARKING SPACES ON OTHERWISE UNRESTRICTED PARKING FACILITY. A parking facility owner may designate one or more spaces as restricted parking spaces on a portion of an otherwise unrestricted parking facility. Instead of installing a sign at each entrance to the parking facility as provided by Section 2308.301(a)(2) [~~684.031(a)(2)~~], an owner may place a sign that prohibits unauthorized vehicles from parking in designated spaces and that otherwise complies with Sections 2308.301 [~~684.031~~] and 2308.302

[~~684.032~~]:

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

(2) at the end of a restricted parking space so that the sign, the top of which must not be higher than seven feet above the ground, is in front of a vehicle that is parked in the space and the rear of which is at the entrance of the space.

Sec. 2308.305 [~~684.035~~]. INDIVIDUAL PARKING RESTRICTIONS IN RESTRICTED AREA. (a) A parking facility owner who complies with Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~] may impose further specific parking restrictions in an area to which the signs apply for individual spaces by installing or painting a weather-resistant sign or notice on a curb, pole, post, permanent wall, or permanent barrier so that the sign is in front of a vehicle that is parked in the space and the rear of which is at the entrance of the space.

(b) The top of the sign or notice may not be higher than seven feet above the ground.

(c) The sign or notice must include an indication that the space is reserved for a particular unit number, person, or type of person.

(d) The letters on the sign or notice must be at least two inches in height and must contrast to the color of the curb, wall, or barrier so they can be read during the day and at night. The letters are not required to be illuminated or made of reflective material.

SECTION 2.05. Subchapter D, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter H, Chapter 2308, Occupations Code, and Sections 684.051 through 684.054, Transportation Code, are renumbered as Sections 2308.351 through 2308.354, Occupations Code, and amended to read as follows:

SUBCHAPTER H [~~D~~]. REGULATION OF PARKING ON CERTAIN PUBLIC ROADWAY AREAS

Sec. 2308.351 [~~684.051~~]. REMOVAL OF UNAUTHORIZED VEHICLE FROM LEASED RIGHT-OF-WAY. Unless prohibited by the lease, a parking facility owner or towing company may remove an unauthorized vehicle parked in a leased area described by Section 2308.002(7)(B)(i) [~~684.001(1)(B)(i)~~] if the owner or towing company gives notice under Section 2308.252(a)(1), (2), or (3) [~~684.012(a)(1), (2), or (3)~~] and otherwise complies with this chapter.

Sec. 2308.352 [~~684.052~~]. REMOVAL OF UNAUTHORIZED VEHICLE FROM AREA BETWEEN PARKING FACILITY AND PUBLIC ROADWAY. Unless prohibited by a municipal ordinance, a parking facility owner or towing company may remove an unauthorized vehicle any part of which is in an area described by Section 2308.002(7)(B)(ii) [~~684.001(1)(B)(ii)~~] if notice provided by Section 2308.252(a)(2) or (3) [~~684.012(a)(2) or (3)~~] is given and the owner or towing company has otherwise complied with this chapter.

Sec. 2308.353 [~~684.053~~]. REMOVAL UNDER GOVERNMENTAL ENTITY'S AUTHORITY OF UNAUTHORIZED VEHICLE PARKED IN RIGHT-OF-WAY. (a) A governmental entity that has jurisdiction over a public

roadway and that has posted one or more signs in the right-of-way stating that parking is prohibited in the right-of-way may:

(1) remove or contract with a towing company to remove an unauthorized vehicle parked in the right-of-way of the public roadway; or

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

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

(B) remove vehicles from the right-of-way of the public roadway under this chapter.

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

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

(2) be placed facing the public roadway:

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

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

(3) in all other respects comply with Subchapter G [~~C~~].

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

Sec. 2308.354 [~~684.054~~]. AUTHORITY FOR REMOVAL OF VEHICLE FROM PUBLIC ROADWAY. (a) Under an ordinance of a municipality regulating the parking of vehicles in the municipality, to aid in the enforcement of the ordinance, an employee designated by the municipality may be authorized to:

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

(2) remove an immobilized vehicle from a public roadway in the municipality.

(b) A parking facility owner or towing company may not remove a vehicle from a public roadway except under:

(1) this chapter or a municipal ordinance that complies with Section 2308.208 [~~684.101~~]; or

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

SECTION 2.06. Subchapter E, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter I, Chapter 2308, Occupations Code, and Sections 684.081 through 684.087, Transportation Code, are renumbered as Sections 2308.401 through 2308.407, Occupations Code, to read as follows:

SUBCHAPTER I [~~E~~]. REGULATION OF TOWING COMPANIES AND PARKING FACILITY OWNERS

Sec. 2308.401 [~~684.081~~]. PARKING FACILITY OWNER PROHIBITED FROM RECEIVING FINANCIAL GAIN FROM TOWING COMPANY. (a) A parking facility owner may not directly or indirectly accept anything of value from a towing company in connection with the removal of a

vehicle from a parking facility.

(b) A parking facility owner may not have a direct or indirect monetary interest in a towing company that for compensation removes unauthorized vehicles from a parking facility in which the parking facility owner has an interest.

Sec. 2308.402 [~~684.082~~]. TOWING COMPANY PROHIBITED FROM FINANCIAL INVOLVEMENT WITH PARKING FACILITY OWNER. (a) A towing company may not directly or indirectly give anything of value to a parking facility owner in connection with the removal of a vehicle from a parking facility.

(b) A towing company may not have a direct or indirect monetary interest in a parking facility from which the towing company for compensation removes unauthorized vehicles.

Sec. 2308.403 [~~684.083~~]. LIMITATION ON LIABILITY OF PARKING FACILITY OWNER FOR REMOVAL OR STORAGE OF UNAUTHORIZED VEHICLE. A parking facility owner who causes the removal of an unauthorized vehicle is not liable for damages arising from the removal or storage of the vehicle if the vehicle:

(1) was removed in compliance with this chapter; and

(2) is:

(A) removed by a towing company insured against liability for property damage incurred in towing a vehicle; and

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

Sec. 2308.404 [~~684.084~~]. CIVIL LIABILITY OF TOWING COMPANY OR PARKING FACILITY OWNER FOR VIOLATION OF CHAPTER. (a) A towing

company or parking facility owner who violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for:

(1) damages arising from the removal or storage of the vehicle; and

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

(b) A vehicle's owner or operator is not required to prove negligence of a parking facility owner or towing company to recover under Subsection (a).

(c) A towing 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 $300 plus three times the amount of fees assessed in the vehicle's removal, towing, or storage.

(d) In a suit brought under this chapter, the prevailing party is entitled to recover reasonable attorney's fees.

Sec. 2308.405 [~~684.085~~]. VIOLATION OF CHAPTER; FINE. A violation of this chapter is a misdemeanor punishable by a fine of not less than $500 or more than $1,500.

Sec. 2308.406 [~~684.086~~]. VIOLATION OF CHAPTER; INJUNCTION. A violation of this chapter may be enjoined under Subchapter E, Chapter 17, Business & Commerce Code.

Sec. 2308.407 [~~684.087~~]. MINOR SIGN OR LETTERING HEIGHT VARIATIONS. A minor variation of a required or minimum height of a sign or lettering is not a violation of this chapter.

SECTION 2.07. Sections 685.002 through 685.010,

Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter J, Chapter 2308, Occupations Code, renumbered as Sections 2308.451 through 2308.459, Occupations Code, and amended to read as follows:

SUBCHAPTER J. RIGHTS OF OWNERS AND OPERATORS OF STORED VEHICLES

Sec. 2308.451 [~~685.002~~]. PAYMENT OF COST OF REMOVAL AND STORAGE OF VEHICLE. (a) If in a hearing held under this chapter the court finds that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person who requested the hearing shall pay the costs of the removal and storage.

(b) If in a hearing held under this chapter the court does not find that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person or law enforcement agency that authorized the removal shall:

(1) pay the costs of the removal and storage; or

(2) reimburse the owner or operator for the cost of the removal and storage paid by the owner or operator.

Sec. 2308.452 [~~685.003~~]. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO HEARING. The owner or operator of a vehicle that has been removed and placed in a vehicle storage facility without the consent of the owner or operator of the vehicle is entitled to a hearing on whether probable cause existed for the removal and placement.

Sec. 2308.453 [~~685.004~~]. JURISDICTION. A hearing under this chapter shall be in the justice court having jurisdiction in

the precinct in which the vehicle storage facility is located.

Sec. 2308.454 [~~685.005~~]. NOTICE TO VEHICLE OWNER OR OPERATOR. (a) If before a hearing held under this chapter the owner or operator of a vehicle pays the costs of the vehicle's 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 chapter.

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

Sec. 2308.455 [~~685.006~~]. CONTENTS OF NOTICE. The notice under Section 2308.454 [~~685.005~~] must include:

(1) a statement of:

(A) the person's right to submit a request within 14 days for a court hearing to determine whether probable cause existed to remove the vehicle;

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

(C) any filing fee for the hearing;

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

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

(4) the name, address, and telephone number of the person, property owner, or law enforcement agency that authorized

the removal of the vehicle; and

(5) the name, address, and telephone number of the justice court having jurisdiction in the precinct in which the vehicle storage facility is located.

Sec. 2308.456 [~~685.007~~]. REQUEST FOR HEARING. (a) Except as provided by Subsection (c), a person entitled to a hearing under this chapter must deliver a written request for the hearing to the court before the 14th day after the date the vehicle was removed and placed in the vehicle storage facility, excluding Saturdays, Sundays, and legal holidays.

(b) A request for a hearing must contain:

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

(2) the location from which the vehicle was removed;

(3) the date when the vehicle was removed;

(4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal;

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

(6) the name, address, and telephone number of the towing company that removed the vehicle;

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

(8) if the vehicle was removed from a parking facility:

(A) one or more photographs that show the

location and text of any sign posted at the facility restricting parking of vehicles; or

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

(c) If notice was not given under Section 2308.454 [~~685.005~~], the 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.

(d) A person who fails to deliver a request in accordance with Subsection (a) waives the right to a hearing.

Sec. 2308.457 [~~685.008~~]. FILING FEE AUTHORIZED. The court may charge a filing fee of $20 for a hearing under this chapter.

Sec. 2308.458 [~~685.009~~]. HEARING. (a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing.

(b) The court shall notify the person who requested the hearing, [~~and~~] the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure [~~by registered or certified mail~~]. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.

(b-1) At a hearing under this section:

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

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

(c) The issues in a hearing 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 [~~643.201~~] or 2308.202 [~~643.203~~];

(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 [~~643.204~~] or 2308.204 [~~643.205~~]; or

(4) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount filed with the department under Section 2308.206 [~~643.207~~].

(d) The court shall make written findings of fact and a conclusion of law.

(e) The court may award:

(1) court costs to the prevailing party;

(2) the reasonable cost of photographs submitted under Section 2308.456(b)(8) [~~685.007(b)(8)~~] to a vehicle owner or operator who is the prevailing party; [~~and~~]

(3) an amount equal to the amount that the towing charge exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303; and

(4) reimbursement of fees paid for vehicle towing and storage [~~, Occupations Code~~].

Sec. 2308.459 [~~685.010~~]. APPEAL. An appeal from a hearing under this chapter is governed by the rules of procedure applicable to civil cases in justice court, except that no appeal bond may be required by the court.

SECTION 2.08. Subchapter J, Chapter 2308, Occupations Code, as added by this Act, is amended by adding Section 2308.460 to read as follows:

Sec. 2308.460. ENFORCEMENT OF AWARD. An award under this chapter may be enforced by any means available for the enforcement of a judgment for a debt.

SECTION 2.09. Chapter 2308, Occupations Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. ENFORCEMENT

Sec. 2308.501. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates:

(1) this chapter or a rule adopted under this chapter; or

(2) a rule or order of the executive director or commission.

(b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 2308.502. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

Sec. 2308.503. SANCTIONS. The department may impose sanctions as provided by Section 51.353.

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

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

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

(3) employs an individual who does not hold the appropriate license required by this chapter; or

(4) falsifies a certification or training.

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

SECTION 2.10. Section 643.253(d), Transportation Code, is transferred to Subchapter K, Chapter 2308, Occupations Code, renumbered as Section 2308.505, Occupations Code, and amended to read as follows:

Sec. 2308.505. CRIMINAL PENALTY; TOWING. (a) [~~(d)~~] 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 [~~643.201~~] or 2308.202 [~~643.203~~], 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 [~~643.201~~] or 2308.202 [~~643.203~~] 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 [~~643.205~~];

(4) charges or collects a fee in excess of the amount filed with the department under Section 2308.206 [~~643.207~~];

(5) violates Section 2308.205 [~~643.206~~]; or

(6) violates a rule of the department applicable to a tow truck and towing company.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $200 or more than $1,000 per violation.

ARTICLE 3. CONFORMING AMENDMENTS

SECTION 3.01. Article 18.23(e), Code of Criminal Procedure, is amended to read as follows:

(e) Subchapter J, Chapter 2308, Occupations Code [~~Chapter 685, Transportation Code~~], does not apply to a motor vehicle directed by a law enforcement agency to be towed and stored for an evidentiary or examination purpose.

SECTION 3.02. Section 101.141(a), Government Code, is amended to read as follows:

(a) A clerk of a justice court shall collect fees and costs

as follows:

(1) additional court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the commissioners court of a county with a population of at least 2.5 million (Sec. 152.005, Civil Practice and Remedies Code) . . . not to exceed $3;

(2) additional filing fees:

(A) to fund Dallas County civil court facilities (Sec. 51.705, Government Code) . . . not more than $15; and

(B) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $2;

(3) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . $1.50;

(4) fee for hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 2308.457, Occupations Code [~~685.008, Transportation Code~~]) . . . $20;

(5) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas

Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(6) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid;

(7) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding; and

(8) the cost of a special program that a court may order a child to attend after a finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed $100.

SECTION 3.03. Section 101.161, Government Code, is amended

to read as follows:

Sec. 101.161. MUNICIPAL COURT FEES AND COSTS. The clerk of a municipal court shall collect:

(1) a fee for a hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 2308.457, Occupations Code [~~685.008, Transportation Code~~]) . . . $20; and

(2) the cost of a special program that a court may order a child to attend after finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed $100.

SECTION 3.04. Section 2303.155(f), Occupations Code, is amended to read as follows:

(f) The operator of a vehicle storage facility or governmental vehicle storage facility may not charge an additional fee related to the storage of a vehicle other than a fee authorized by this section or a towing fee authorized by Chapter 2308 [~~Chapter 643, Transportation Code~~].

SECTION 3.05. Section 504.508(c), Transportation Code, is amended to read as follows:

(c) Proof of eligibility for license plates under this section must include a copy of the permit [~~registration~~] certificate issued by the Texas Department of Licensing and Regulation [~~department~~] for the tow truck.

SECTION 3.06. Section 643.002, Transportation Code, is amended to read as follows:

Sec. 643.002. EXEMPTIONS. This chapter does not apply to:

(1) a motor vehicle registered under the single state registration system established under 49 U.S.C. Section 14504(c) when operating exclusively in interstate or international commerce;

(2) a motor vehicle registered as a cotton vehicle under Section 502.277;

(3) a motor vehicle the department by rule exempts because the vehicle is subject to comparable registration and a comparable safety program administered by another governmental entity;

(4) a motor vehicle used to transport passengers operated by an entity whose primary function is not the transportation of passengers, such as a vehicle operated by a hotel, day-care center, public or private school, nursing home, or similar organization;

(5) a vehicle operating under a private carrier permit issued under Chapter 42, Alcoholic Beverage Code; [~~or~~]

(6) a vehicle operated by a governmental entity; or

(7) a tow truck, as defined by Section 2308.002, Occupations Code.

SECTION 3.07. Section 643.051(a), Transportation Code, is amended to read as follows:

(a) A motor carrier may not operate a commercial motor vehicle, as defined by Section 548.001, [~~or a tow truck~~] on a road or highway of this state unless the carrier registers with the department under this subchapter.

SECTION 3.08. Section 643.053, Transportation Code, is

amended to read as follows:

Sec. 643.053. FILING OF APPLICATION. An application under Section 643.052 must be filed with the department and accompanied by:

(1) an application fee of $100 plus a $10 fee for each vehicle requiring registration [~~other than a tow truck or a $25 fee for each tow truck the motor carrier proposes to operate~~];

(2) evidence of insurance or financial responsibility as required by Section 643.103(a); and

(3) any insurance filing fee required under Section 643.103(c).

SECTION 3.09. Sections 643.057(a) and (d), Transportation Code, are amended to read as follows:

(a) A motor carrier may not operate an additional vehicle requiring registration unless the carrier pays a registration fee of $10 for each additional vehicle [~~other than a tow truck or $25 for each tow truck~~] and shows the department evidence of insurance or financial responsibility for the vehicle in an amount at least equal to the amount set by the department under Section 643.101.

(d) The department may not collect more than $10 in equipment registration fees for a vehicle [~~other than a tow truck~~] registered under both this subchapter and Chapter 645 [~~or more than $25 if the vehicle is a tow truck~~].

SECTION 3.10. Section 643.058(c), Transportation Code, is amended to read as follows:

(c) A motor carrier may renew a registration under this subchapter by:

(1) supplementing the application with any new information required under Section 643.056;

(2) paying a $10 fee for each vehicle requiring registration [~~other than a tow truck or a fee of $25 for each tow truck the carrier operates~~]; and

(3) providing the department evidence of continuing insurance or financial responsibility in an amount at least equal to the amount set by the department under Section 643.101.

SECTION 3.11. Section 643.061(b), Transportation Code, is amended to read as follows:

(b) A motor carrier applying for registration under this section must pay:

(1) a $20 fee for each vehicle registered [~~other than a tow truck or a fee of $50 for each tow truck~~] under Subsection (a)(1);

(2) a $10 fee for each vehicle registered [~~other than a tow truck or a fee of $25 for each tow truck~~] under Subsection (a)(2); and

(3) application and insurance filing fees the department by rule adopts in an amount not to exceed $100 each.

SECTION 3.12. Section 643.253(e), Transportation Code, is amended to read as follows:

(e) An offense under Subsection (b) [~~or (d)~~] is a misdemeanor punishable by a fine of not less than $200 or more than $1,000 per violation.

SECTION 3.13. Section 1(1), Chapter 528, Acts of the 76th Legislature, Regular Session, 1999 (Article 178d-1, Vernon's Texas

Civil Statutes), is amended to read as follows:

(1) "Parking facility," "parking facility owner," and "vehicle" have the meanings assigned by Section 2308.002, Occupations Code [~~684.001, Transportation Code~~].

ARTICLE 4. MISCELLANEOUS

SECTION 4.01. Section 683.012, Transportation Code, is amended by adding Subsection (f) to read as follows:

(f) In addition to the notice required under Subsection (a), if a law enforcement agency takes an abandoned motor vehicle into custody, the agency shall notify a person that files a theft report or similar report prepared by any law enforcement agency for the vehicle of that fact. The notice must be sent by regular mail on the next business day after the agency takes the vehicle into custody. The law enforcement agency shall also provide the name and address of the person that filed the theft report or similar report to the vehicle storage facility or governmental vehicle storage facility that is storing the vehicle.

ARTICLE 5. TRANSITION AND EFFECTIVE DATE

SECTION 5.01. (a) The following provisions of the Transportation Code are repealed:

(1) Section 643.001(7);

(2) Section 643.101(d);

(3) Section 643.202;

(4) Section 684.001;

(5) Section 685.001;

(6) the heading to Subchapter E, Chapter 643;

(7) the heading to Chapter 684;

(8) the headings to Subchapters A, B, and F, Chapter 684; and

(9) the heading to Chapter 685.

(b) Subchapters E and F, Chapter 2303, Occupations Code, are repealed.

SECTION 5.02. As soon as practicable after the effective date of this Act, the presiding officer of the Texas Commission of Licensing and Regulation shall make the initial appointments to the Towing and Storage Advisory Board. The presiding officer shall appoint two members to terms expiring February 1, 2009, three members to terms expiring February 1, 2011, and three members to terms expiring February 1, 2013.

SECTION 5.03. (a) As soon as practicable after the effective date of this Act, the Texas Department of Transportation and the Texas Department of Licensing and Regulation shall develop and enter into a memorandum of understanding regarding the transfer described in this section that includes a transition plan for transferring the functions performed by the Texas Transportation Commission and the Texas Department of Transportation that relate to tow trucks, towing operations, or vehicle storage facilities to the Texas Department of Licensing and Regulation. The transition plan must include a timetable with specific steps and deadlines needed to complete the transfer, and may include provisions for the extension of expiration dates for licenses.

(b) In accordance with the transition plan developed by the Texas Department of Transportation and the Texas Department of Licensing and Regulation under Subsection (a) of this section, on

January 1, 2008:

(1) all functions and activities performed by the Texas Transportation Commission and the Texas Department of Transportation relating to tow trucks, towing operations, or vehicle storage facilities immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Transportation Commission and the Texas Department of Transportation that relates to tow trucks, towing operations, or vehicle storage facilities is a rule or form of the Texas Commission of Licensing and Regulation or the Texas Department of Licensing and Regulation, as applicable, and remains in effect until amended or replaced by that commission or department;

(3) a reference in law to or an administrative rule of the Texas Transportation Commission and the Texas Department of Transportation that relates to tow trucks, towing operations, or vehicle storage facilities means the Texas Commission of Licensing and Regulation or the Texas Department of Licensing and Regulation, as applicable;

(4) a complaint, investigation, or other proceeding before the Texas Transportation Commission or the Texas Department of Transportation that is related to tow trucks, towing operations, or vehicle storage facilities is transferred without change in status to the Texas Department of Licensing and Regulation, and the Texas Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Transportation Commission and the Texas Department of

Transportation in an action or proceeding to which the Texas Transportation Commission or the Texas Department of Transportation is a party;

(5) all full-time equivalent employee positions at the Texas Department of Transportation that primarily concern the administration of tow trucks, towing operations, or vehicle storage facilities become positions at the Texas Department of Licensing and Regulation, and when filling the positions, the Texas Department of Licensing and Regulation shall give first consideration to an applicant who, as of December 31, 2007, was a full-time employee at the Texas Department of Transportation primarily involved in administering tow trucks, towing operations, or vehicle storage facilities;

(6) all money, contracts, leases, property, and obligations of the Texas Department of Transportation related to the regulation of tow trucks, towing operations, or vehicle storage facilities are transferred to the Texas Department of Licensing and Regulation;

(7) all property in the custody of the Texas Department of Transportation related to tow trucks, towing operations, or vehicle storage facilities is transferred to the Texas Department of Licensing and Regulation; and

(8) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Transportation Commission and the Texas Department of Transportation related to tow trucks, towing operations, or vehicle storage facilities is transferred to the Texas Department of Licensing and Regulation.

(c) Before January 1, 2008, the Texas Department of Transportation may agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Department of Transportation to the Texas Department of Licensing and Regulation to implement the transfer required by this Act.

(d) In the period beginning with the effective date of this Act and ending on December 31, 2007, the Texas Transportation Commission and the Texas Department of Transportation shall continue to perform functions and activities under Chapter 2303, Occupations Code, and those portions of Chapters 643 and 684, Transportation Code, that relate to tow trucks, towing operations, or vehicle storage facilities, as if those laws were not amended by this Act, and the former law is continued in effect for that purpose.

SECTION 5.04. Not later than April 1, 2008, the Texas Commission of Licensing and Regulation shall adopt rules relating to an original application for a permit or license under Chapter 2303, Occupations Code, as amended by this Act, and Chapter 2308, Occupations Code, as added by this Act.

SECTION 5.05. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2007.

(b) Section 2308.504, Occupations Code, as added by this Act, and Subchapters C and D, Chapter 2308, Occupations Code, as added by this Act, take effect September 1, 2008.

House Bill 2094
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION	CONFERENCE
No equivalent provision.	ARTICLE 1. LICENSING AND REGULATION OF TOWING AND VEHICLE STORAGE	Same as Senate version.
No equivalent provision.	SECTION 1.01. Amends Sections 2303.002(2), (3), and (4), Occupations Code. (2) "Commission" means the Texas Commission of Licensing and Regulation. (3) "Department" means the Texas Department of Licensing and Regulation. (4) "Executive director" means the executive director of the department.	Same as Senate version.
No equivalent provision.	SECTION 1.02. Section 2303.051, Occupations Code, is amended to provide that the commission shall adopt a rule that govern the administration of this chapter.	Same as Senate version.
No equivalent provision.	SECTION 1.03. Subchapter B, Chapter 2303, Occupations Code, is amended by adding Sections 2303.055, 2303.056, 2303.057, and 2303.058 to read as follows: <u>Sec. 2303.055. EXAMINATION OF CRIMINAL CONVICTION. The department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.</u> <u>Sec. 2303.056. PERIODIC AND RISK-BASED INSPECTIONS. (a) The department may enter and inspect at any time during business hours:</u> <u>(1) the place of business of any person regulated under this chapter; or</u>	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	(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. Sec. 2303.057. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter. Sec. 2303.058. ADVISORY BOARD. The Towing and Storage Advisory Board under Chapter 2308 shall advise the commission in adopting vehicle storage rules under this chapter.	
No equivalent provision.	SECTION 1.04. The heading to Section 2303.101, Occupations Code, is amended to read as follows: Sec. 2303.101. FACILITY LICENSE REQUIRED.	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
No equivalent provision.	SECTION 1.05. Subchapter C, Chapter 2303, Occupations Code, is amended by adding Section 2303.1015 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. (b) The commission shall adopt rules governing the application for and issuance of a license under this section.	
No equivalent provision.	SECTION 1.06. Sections 2303.102(a) and (b), Occupations Code, are amended to read as follows: (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 executive director. (b) The rules adopted [~~by the commission~~] under this section must require an [~~the~~] application for a facility license [~~to be made under oath and~~] to list: (1) the name and address of each partner, if the applicant is a partnership; and (2) the name and address of the president, secretary, and treasurer of the corporation, if the applicant is a corporation [~~; and~~ [~~(3) each conviction of a felony, or of a misdemeanor punishable by confinement in jail or by a fine exceeding $200, that was obtained against the applicant or a partner or officer of the applicant in the three years preceding the date of application~~].	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
No equivalent provision.	SECTION 1.07. Section 2303.151(c), Occupations Code, is amended specify that it is a defense to an action initiated by the department for a violation of this section that the operator of the facility unsuccessfully attempted in writing <u>or electronically</u> to obtain information from the governmental entity with which the vehicle is registered.	Same as Senate version.
No equivalent provision.	SECTION 1.08. Section 2303.155(b), Occupations Code, is amended to provide that the operator of a vehicle storage facility or governmental vehicle storage facility may not charge a fee under Subsection (b) to the owner of a vehicle stored or parked at the facility as a result of recovery of the vehicle after being stolen if the vehicle owner provides the operator with a copy of the police report or similar report prepared by any law enforcement agency showing that the vehicle was reported stolen.	Same as Senate version.
No equivalent provision.	SECTION 1.09. Subchapter D, Chapter 2303, Occupations Code, is amended by adding Section 2303.160 to read as follows: <u>Sec. 2303.160. DRUG TESTING OF EMPLOYEES. (a) A license holder shall establish a drug testing policy for employees of the vehicle storage facility operated by the license holder. A license holder that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted</u>	Same as Senate version.

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	by the commission. (b) The commission by rule shall adopt a model drug testing policy for use by license holders. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. The model drug testing policy must: (1) require at least one scheduled drug test each year for each employee of a vehicle storage facility who has direct contact with the public; and (2) authorize random, unannounced drug testing for employees described by Subdivision (1).	
No equivalent provision.	SECTION 1.10. Section 2303.302, Occupations Code, is amended to stipulate that a person commits an offense if the person violates the licensing requirements of this chapter or employs an individual who does not hold an appropriate license required by this chapter. Establishes that an offense under this section is a Class C misdemeanor.	Same as Senate version.
No equivalent provision.	SECTION 1.11. Subchapter G, Chapter 2303, Occupations Code, is amended by adding Sections 2303.304 and 2303.305 to read as follows: Sec. 2303.304. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates: (1) this chapter or a rule adopted under this chapter; or	Same as Senate version.

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	(2) a rule or order of the executive director or commission. (b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing. Sec. 2303.305. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety. (b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.	
No equivalent provision.	SECTION 1.12. Subtitle A, Title 14, Occupations Code, is amended by adding Chapter 2308 to read as follows: CHAPTER 2308. VEHICLE TOWING SUBCHAPTER A. GENERAL PROVISIONS Sec. 2308.001. SHORT TITLE. This chapter may be cited as the Texas Towing Act. Sec. 2308.002. DEFINITIONS. In this chapter: (1) "Advisory board" means the Towing and Storage Advisory Board. (2) "Commission" means the Texas Commission of Licensing and Regulation. (3) "Consent tow" means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a	Same as Senate version.

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	person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle. (4) "Department" means the Texas Department of Licensing and Regulation. (5) "Driver's license" has the meaning assigned by Section 521.001, Transportation Code. (6) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow. (7) "Parking facility" means public or private property used, wholly or partly, for restricted or paid vehicle parking. The term includes: (A) a restricted space on a portion of an otherwise unrestricted parking facility; and (B) a commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, home, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including: (i) a portion of the right-of-way of a public roadway that is leased by a governmental entity to the parking facility owner; and (ii) the area between the facility's property line abutting a county or municipal public roadway and the center line of the roadway's drainage way or the curb of the roadway, whichever is farther from the facility's property line. (8) "Parking facility owner" means: (A) an owner or operator of a parking facility, including	

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	a lessee, employee, or agent of an owner or operator; (B) a property owners' association having control under a dedicatory instrument, as that term is defined in Section 202.001, Property Code, over assigned or unassigned parking areas; or (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. (9) "Property owners' association" has the meaning assigned by Section 202.001, Property Code. (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. (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. (12) "Towing company" means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a public roadway in this state but does not include a political subdivision of the state. (13) "Unauthorized vehicle" means a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner. (14) "Vehicle" means a device in, on, or by which a person or property may be transported on a public roadway. The term includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer but does not include a device moved by human power or used exclusively on a stationary rail or track.	

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	(15) "Vehicle owner" means a person: (A) named as the purchaser or transferee in the certificate of title issued for the vehicle under Chapter 501, Transportation Code; (B) in whose name the vehicle is registered under Chapter 502, Transportation Code, or a member of the person's immediate family; (C) who holds the vehicle through a lease agreement; (D) who is an unrecorded lienholder entitled to possess the vehicle under the terms of a chattel mortgage; or (E) who is a lienholder holding an affidavit of repossession and entitled to repossess the vehicle. (16) "Vehicle storage facility" means a vehicle storage facility, as defined by Section 2303.002, that is operated by a person who holds a license issued under Chapter 2303 to operate the facility. Sec. 2308.003. STUDY OF NONCONSENT TOWING FEES. (a) The department shall study the fees charged by license and permit holders for nonconsent tows, compliance of license and permit holders with local regulations governing towing fees, and consumer complaints related to fees for nonconsent tows. Not later than January 1, 2009, the department shall report to the legislature the findings of the study, including any recommendations for state regulation of towing fees. (b) This section expires September 1, 2009. [Sections 2308.004-2308.050 reserved for expansion] SUBCHAPTER B. ADVISORY BOARD Sec. 2308.051. TOWING AND STORAGE ADVISORY BOARD. (a) The advisory board consists	

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	of the following members appointed by the presiding officer of the commission with the approval of the commission: (1) one representative of a towing company operating in a county with a population of less than one million; (2) one representative of a towing company operating in a county with a population of one million or more; (3) one owner of a vehicle storage facility located in a county with a population of less than one million; (4) one owner of a vehicle storage facility located in a county with a population of one million or more; (5) one parking facility owner; (6) one law enforcement officer from a county with a population of less than one million; (7) one law enforcement officer from a county with a population of one million or more; and (8) one representative of property and casualty insurers who write automobile insurance in this state. (b) The advisory board must include representation for each classification of towing. (c) An appointment to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee. Sec. 2308.052. TERMS; VACANCIES. (a) Advisory board members serve terms of six years, with the terms of two or three members, as appropriate, expiring on February 1 of each odd-numbered year. (b) A member may not serve more than two full consecutive terms. (c) If a vacancy occurs during a term, the presiding	

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	officer of the commission shall appoint a replacement who meets the qualifications of the vacated position to serve for the remainder of the term. Sec. 2308.053. PRESIDING OFFICER. The presiding officer of the commission shall appoint one of the advisory board members to serve as presiding officer of the advisory board for a term of one year. The presiding officer of the advisory board may vote on any matter before the advisory board. Sec. 2308.054. COMPENSATION; REIMBURSEMENT OF EXPENSES. Advisory board members may not receive compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the advisory board, subject to the General Appropriations Act. Sec. 2308.055. MEETINGS. The advisory board shall meet twice annually and may meet at other times at the call of the presiding officer of the commission or the executive director. Sec. 2308.056. GENERAL POWERS AND DUTIES. The executive director or commission, as appropriate, may take action as necessary to administer and enforce this chapter. Sec. 2308.057. RULES. (a) The commission shall adopt rules for permitting tow trucks and licensing towing operators and towing companies. (b) The commission by rule shall adopt standards of conduct for license and permit holders under this chapter. Sec. 2308.058. FEES. The commission shall establish and collect reasonable and necessary fees in amounts	

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	sufficient to cover the costs of administering this chapter. Sec. 2308.059. 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 or permit holder is in violation of this chapter or in violation of a rule or order of the commission or executive director. (b) 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 towing company or operator; (2) the inspection history; (3) any history of complaints involving the towing company or operator; and (4) any other factor determined by the commission by rule. (c) The towing company shall pay a fee for each risk-based inspection performed under this section. The commission by rule shall set the amount of the fee. (d) In conducting an inspection under this section, the department may inspect a vehicle, a facility, business records, or any other place or thing reasonably required to enforce this chapter or a rule or order adopted under this chapter. Sec. 2308.060. POWERS AND DUTIES OF ADVISORY BOARD. The advisory board shall provide	

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	advice and recommendations to the department on technical matters relevant to the administration and enforcement of this chapter, including examination content, licensing standards, and continuing education requirements. Sec. 2308.061. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter. [Sections 2308.062-2308.100 reserved for expansion] SUBCHAPTER C. TOW TRUCK PERMIT REQUIREMENTS Sec. 2308.101. PERMIT REQUIRED. A tow truck may not be used for consent towing or nonconsent towing on a public roadway in this state unless an appropriate permit has been issued for the tow truck under this subchapter. Each tow truck requires a separate permit. Sec. 2308.102. APPLICATION REQUIREMENTS. (a) An applicant for a permit under this subchapter must submit to the department: (1) a completed application on a form prescribed by the executive director; (2) evidence of insurance or financial responsibility required under this subchapter; (3) the required fees; and (4) any other information required by the executive director. (b) The department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.	

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	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(e), Transportation Code. Sec. 2308.104. REQUIREMENTS FOR PRIVATE PROPERTY TOWING PERMIT. (a) A private property towing permit is required for a tow truck used to perform a nonconsent tow authorized by a parking facility owner under this chapter. (b) To be eligible for a private property towing permit, an applicant must submit evidence that: (1) the tow truck is equipped to tow light-duty or heavy-	

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	duty vehicles according to the manufacturer's towing guidelines; (2) the applicant has at least $300,000 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 consent towing but not for incident management towing. Sec. 2308.105. REQUIREMENTS FOR CONSENT TOWING PERMIT. (a) A consent towing permit is required for a tow truck used to perform a consent tow authorized by the vehicle owner. (b) To be eligible for a consent 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; and (2) the applicant has at least $300,000 of liability insurance for the tow truck. (c) A tow truck permitted under this section may not be used for nonconsent towing, including incident management towing and private property towing. Sec. 2308.106. DEPARTMENT APPROVAL; ISSUANCE OF PERMIT. (a) The department shall issue a permit under this subchapter to an applicant who meets the requirements for a permit. The department may deny an application if the applicant has had a permit revoked under this chapter. (b) The department shall issue a certificate containing a	

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	single unique permit number for each tow truck, regardless of whether the permit holder holds more than one permit. Sec. 2308.107. PERMIT RENEWAL. (a) A permit issued under this chapter is valid for one year. The department may adopt a system under which permits expire at different times during the year. (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 address according to the records of the department. (c) A permit holder may renew a permit under this chapter by: (1) paying a fee for each tow truck; and (2) providing to the department evidence of continuing insurance or financial responsibility in an amount required by this chapter. Sec. 2308.108. CAB CARDS. (a) The department shall issue a cab card for each tow truck issued a permit. The cab card must: (1) show the permit number of the certificate issued under Section 2308.106(b); (2) show the type of permit issued; (3) show the vehicle unit number; (4) show the vehicle identification number; and (5) contain a statement that the vehicle has been issued a permit under this subchapter. (b) The department shall issue a cab card when the department issues or renews a permit under this	

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	subchapter. (c) A permit holder must keep the cab card in the cab of each permitted tow truck. (d) The department may order a permit holder to surrender a cab card if the permit is suspended or revoked under this chapter. (e) If the department determines that the cab card system described by Subsections (a) through (c) is not an efficient means of enforcing this subchapter, the executive director by rule may adopt an alternative method that is accessible by law enforcement personnel in the field and provides for the enforcement of the permit requirements of this subchapter. (f) A cab card or a permit issued under the alternative method described in Subsection (e) must be valid for the same duration as a certificate issued under Section 2308.106. Sec. 2308.109. DISPLAY OF INFORMATION ON TOW TRUCK. (a) A permit holder shall display on each permitted tow truck: (1) the permit holder's name; (2) the permit holder's telephone number; (3) the city and state where the permit holder is located; and (4) the permit number for the tow truck. (b) The information required to be displayed must be: (1) printed in letters and numbers that are at least two inches high and in a color that contrasts with the color of the background surface; and (2) permanently affixed in conspicuous places on both	

HOUSE VERSION	SENATE VERSION	CONFERENCE
	sides of the tow truck. Sec. 2308.110. FINANCIAL RESPONSIBILITY. (a) A permit holder shall maintain liability insurance for each tow truck according to the requirements under this subchapter. (b) Unless state law permits a tow truck to be self-insured, any insurance required for a tow truck must be obtained from an insurer authorized to do business in this state. (c) An applicant or permit holder must file with the department evidence of insurance as required by this subchapter. (d) A permit holder shall keep evidence of insurance in a form approved by the department in the cab of each permitted tow truck. [Sections 2308.111-2308.150 reserved for expansion] SUBCHAPTER D. LICENSE REQUIREMENTS 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. Sec. 2308.152. GENERAL LICENSE APPLICATION REQUIREMENTS. An applicant for a license under this subchapter must submit to the department: (1) a completed application on a form prescribed by the executive director; (2) the required fees; and (3) any other information required by commission rule. Sec. 2308.153. INCIDENT MANAGEMENT TOWING	

HOUSE VERSION	SENATE VERSION	CONFERENCE
	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) be a licensed Texas driver; and (2) be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by the department. Sec. 2308.154. PRIVATE PROPERTY TOWING OPERATOR'S LICENSE. (a) A private property towing operator's license is required to operate a tow truck permitted under Section 2308.104. (b) An applicant for a private property towing operator's license must: (1) be a licensed Texas driver; and (2) be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by the department. Sec. 2308.155. CONSENT TOWING OPERATOR'S LICENSE. (a) A consent towing operator's license is required to operate a tow truck permitted under Section 2308.105. (b) An applicant for a consent towing operator's license must be a licensed Texas driver. Sec. 2308.156. NONTRANSFERABILITY OF LICENSE. A license issued by the executive director is valid throughout this state and is not transferable.	

HOUSE VERSION	SENATE VERSION	CONFERENCE
	Sec. 2308.157. CONTINUING EDUCATION. (a) The commission by rule shall recognize, prepare, or administer continuing education programs for license holders. Except as provided by Subsection (c), each license holder must complete a continuing education program before the license holder may renew the license holder's license. (b) A person recognized by the commission to offer a continuing education program must: (1) register with the department; and (2) comply with rules adopted by the commission relating to continuing education. (c) To renew an incident management towing operator's license the first time, a license holder must complete a professional development course relating to towing that is licensed or certified by the National Safety Council or another course approved and administered by the department under this section. Sec. 2308.158. DRUG TESTING OF TOWING OPERATORS. (a) A towing company shall establish a drug testing policy for towing operators. A towing company that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted by the commission. (b) The commission by rule shall adopt a model drug testing policy for use by a towing company. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to	

HOUSE VERSION	SENATE VERSION	CONFERENCE
	protect the rights of employees. The model drug testing policy must: (1) require at least one scheduled drug test each year for each towing operator; and (2) authorize random, unannounced drug testing for towing operators. Sec. 2308.159. LICENSE RENEWAL. (a) A license issued under this subchapter is valid for one year. The department may adopt a system under which licenses expire at different times during the year. (b) The department shall notify the license holder at least 30 days before the date a license expires. The notice must be in writing and sent to the license holder's last known address according to the records of the department. (c) A license holder may renew a license issued under this chapter by: (1) paying a renewal fee; and (2) completing continuing education as required by Section 2308.157.	
No equivalent provision.	ARTICLE 2. CONSOLIDATION OF LAWS RELATED TO TOWING	Same as Senate version.
No equivalent provision.	SECTION 2.01. Sections 643.201 and 643.203 through 643.208, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter E, Chapter 2308, Occupations Code, renumbered as Sections 2308.201 through 2308.207, Occupations Code. Added Sec. 2308.202 provides that the governing body	Same as Senate version except Section 2308.202 provides that the governing body of a political subdivision *may* regulate the fees.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	of a political subdivision *shall* regulate the fees that may be charged or collected in connection with a nonconsent tow originating in the territory of the political subdivision.	
No equivalent provision.	SECTION 2.02. Section 684.101, Transportation Code, is transferred to Subchapter E, Chapter 2308, Occupations Code, and renumbered as Section 2308.208, Occupations Code.	Same as Senate version.
No equivalent provision.	SECTION 2.03. Sections 684.011, 684.012, 684.0125, 684.013, 684.014, and 684.015, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter F, Chapter 2308, Transportation Code, renumbered as Sections 2308.251 through 2308.256, Occupations Code.	Same as Senate version.
No equivalent provision.	SECTION 2.04. Subchapter C, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter G, Chapter 2308, Occupations Code, and Sections 684.031 through 684.035, Transportation Code, are renumbered as Sections 2308.301 through 2308.305, Occupations Code.	Same as Senate version.
No equivalent provision.	SECTION 2.05. Subchapter D, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter H, Chapter 2308, Occupations Code, and Sections 684.051 through 684.054, Transportation Code, are renumbered	Same as Senate version.

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	as Sections 2308.351 through 2308.354, Occupations Code.	
No equivalent provision.	SECTION 2.06. Subchapter E, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter I, Chapter 2308, Occupations Code, and Sections 684.081 through 684.087, Transportation Code, are renumbered as Sections 2308.401 through 2308.407, Occupations Code.	Same as Senate version.
SECTION 1. Section 685.007(b), Transportation Code, is amended to read as follows:	SECTION 2.07. Sections 685.002 through 685.010, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter J, Chapter 2308, Occupations Code, renumbered as Sections 2308.451 through 2308.459, Occupations Code, and amended to read as follows: SUBCHAPTER J. RIGHTS OF OWNERS AND OPERATORS OF STORED VEHICLES Sec. 2308.451 [~~685.002~~]. PAYMENT OF COST OF REMOVAL AND STORAGE OF VEHICLE. (a) If in a hearing held under this chapter the court finds that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person who requested the hearing shall pay the costs of the removal and storage. (b) If in a hearing held under this chapter the court does not find that a person or law enforcement agency authorized, with probable cause, the removal and storage	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	in a vehicle storage facility of a vehicle, the person or law enforcement agency that authorized the removal shall: (1) pay the costs of the removal and storage; or (2) reimburse the owner or operator for the cost of the removal and storage paid by the owner or operator. Sec. 2308.452 [~~685.003~~]. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO HEARING. The owner or operator of a vehicle that has been removed and placed in a vehicle storage facility without the consent of the owner or operator of the vehicle is entitled to a hearing on whether probable cause existed for the removal and placement. Sec. 2308.453 [~~685.004~~]. JURISDICTION. A hearing under this chapter shall be in the justice court having jurisdiction in the precinct in which the vehicle storage facility is located. Sec. 2308.454 [~~685.005~~]. NOTICE TO VEHICLE OWNER OR OPERATOR. (a) If before a hearing held under this chapter the owner or operator of a vehicle pays the costs of the vehicle's 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 chapter. (b) The operator of a vehicle storage facility that sends a notice under Subchapter D, Chapter 2303, [~~Occupations Code,~~] shall include with that notice a notice of the person's rights under this chapter. Sec. 2308.455 [~~685.006~~]. CONTENTS OF NOTICE.	

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	The notice under Section 2308.454 [~~685.005~~] must include: (1) a statement of: (A) the person's right to submit a request within 14 days for a court hearing to determine whether probable cause existed to remove the vehicle; (B) the information that a request for a hearing must contain; and (C) any filing fee for the hearing; (2) the name, address, and telephone number of the towing company that removed the vehicle; (3) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed; (4) the name, address, and telephone number of the person, property owner, or law enforcement agency that authorized the removal of the vehicle; and (5) the name, address, and telephone number of the justice court having jurisdiction in the precinct in which the vehicle storage facility is located. Sec. 2308.456 [~~685.007~~]. REQUEST FOR HEARING. (a) Except as provided by Subsection (c), a person entitled to a hearing under this chapter must deliver a written request for the hearing to the court before the 14th day after the date the vehicle was removed and placed in the vehicle storage facility, excluding Saturdays, Sundays, and legal holidays.	
(b) A request for a hearing must contain: (1) the name, address, and telephone number of the owner or operator of the vehicle;	(b) A request for a hearing must contain: (1) the name, address, and telephone number of the owner or operator of the vehicle;	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
(2) the location from which the vehicle was removed; (3) the date when the vehicle was removed; (4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal; (5) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed; (6) the name, address, and telephone number of the towing company that removed the vehicle; (7) a copy of any receipt or notification that the owner or operator received from the towing company or the vehicle storage facility; [~~and~~] (8) if the vehicle was removed from a parking facility: (A) one or more photographs that show the location and text of any sign posted at the facility restricting parking of vehicles; or (B) a statement that no sign restricting parking was posted at the parking facility; and (9) a statement explaining each reason why the owner or operator of the vehicle believes no probable cause existed to remove the vehicle.	(2) the location from which the vehicle was removed; (3) the date when the vehicle was removed; (4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal; (5) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed; (6) the name, address, and telephone number of the towing company that removed the vehicle; (7) a copy of any receipt or notification that the owner or operator received from the towing company or the vehicle storage facility; and (8) if the vehicle was removed from a parking facility: (A) one or more photographs that show the location and text of any sign posted at the facility restricting parking of vehicles; or (B) a statement that no sign restricting parking was posted at the parking facility.	
No equivalent provision.	(c) If notice was not given under Section 2308.454 [~~685.005~~], the 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.	Same as Senate version.
No equivalent provision.	(d) A person who fails to deliver a request in accordance with Subsection (a) waives the right to a hearing.	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	Sec. 2308.457 [~~685.008~~]. FILING FEE AUTHORIZED. The court may charge a filing fee of $20 for a hearing under this chapter.	
SECTION 2. Sections 685.009(a), (b), and (e), Transportation Code, are amended to read as follows: (a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing. (b) The court shall notify the person who requested the hearing, [~~and~~] the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure [~~by registered or certified mail~~]. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.	SECTION 2.07. Sec. 2308.458 [~~685.009~~]. HEARING. (a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing. (b) The court shall notify the person who requested the hearing, [~~and~~] the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure [~~by registered or certified mail~~]. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing. (b-1) At a hearing under this section: (1) the burden of proof is on the person who requested the hearing; and (2) hearsay evidence is admissible if it is considered otherwise reliable by the justice of the peace. (c) The issues in a hearing 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	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	subdivision under Section 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~]; (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 [~~643.204~~] or 2308.204 [~~643.205~~]; or (4) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount filed with the department under Section 2308.206 [~~643.207~~]. (d) The court shall make written findings of fact and a conclusion of law.	
(e) The court may award: (1) court costs to the prevailing party; (2) the reasonable cost of photographs submitted under Section 685.007(b)(8) to a vehicle owner or operator who is the prevailing party; [~~and~~] (3) an amount equal to the amount that the towing charge exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303, Occupations Code; and (4) reimbursement of fees paid for vehicle towing and storage.	(e) The court may award: (1) court costs to the prevailing party; (2) the reasonable cost of photographs submitted under Section 2308.456(b)(8) [~~685.007(b)(8)~~] to a vehicle owner or operator who is the prevailing party; [~~and~~] (3) an amount equal to the amount that the towing charge exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303; and (4) reimbursement of fees paid for vehicle towing and storage [~~, Occupations Code~~]. Sec. 2308.459 [~~685.010~~]. APPEAL. An appeal from a hearing under this chapter is governed by the rules of procedure applicable to civil cases in justice court, except that no appeal bond may be required by the court.	
SECTION 3. Chapter 685, Transportation Code, is amended by adding Section 685.011 to provide that an	SECTION 2.08. Same as the House version except specifies for the enforcement of judgment for *a debt*.	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
award under this chapter may be enforced by any means available for the enforcement of judgment for *debts*.		
No equivalent provision.	SECTION 2.09. Chapter 2308, Occupations Code, is amended by adding Subchapter K to read as follows: SUBCHAPTER K. ENFORCEMENT Sec. 2308.501. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates: (1) this chapter or a rule adopted under this chapter; or (2) a rule or order of the executive director or commission. (b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing. Sec. 2308.502. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety. (b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352. Sec. 2308.503. SANCTIONS. The department may impose sanctions as provided by Section 51.353. Sec. 2308.504. CRIMINAL PENALTY; LICENSING.	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	(a) A person commits an offense if the person: (1) violates the permitting or licensing requirements of this chapter; (2) performs towing without a license to perform towing in this state; (3) employs an individual who does not hold the appropriate license required by this chapter; or (4) falsifies a certification or training. (b) An offense under this section is a Class C misdemeanor.	
No equivalent provision.	SECTION 2.10. Section 643.253(d), Transportation Code, is transferred to Subchapter K, Chapter 2308, Occupations Code, renumbered as Section 2308.505, Occupations Code, and amended. Among other provisions, establishes that an offense under this section is a misdemeanor punishable by a fine of not less than $200 or more than $1,000 per violation. Makes conforming changes.	Same as Senate version.
No equivalent provision.	ARTICLE 3. CONFORMING AMENDMENTS	Same as Senate version.
No equivalent provision.	SECTION 3.01-3.13.	Same as Senate version.
No equivalent provision.	No equivalent provision.	ARTICLE 4. MISCELLANEOUS
No equivalent provision.	No equivalent provision.	SECTION 4.01. Section 683.012, Transportation Code, is amended by adding Subsection (f) to read as follows: (f) In addition to the notice required under Subsection (a), if a law enforcement agency takes an abandoned

HOUSE VERSION	SENATE VERSION	CONFERENCE
		motor vehicle into custody, the agency shall notify a person that files a theft report or similar report prepared by any law enforcement agency for the vehicle of that fact. The notice must be sent by regular mail on the next business day after the agency takes the vehicle into custody. The law enforcement agency shall also provide the name and address of the person that filed the theft report or similar report to the vehicle storage facility or governmental vehicle storage facility that is storing the vehicle.
No equivalent provision.	ARTICLE 4. TRANSITION AND EFFECTIVE DATE	ARTICLE 5. Same as Senate version.
No equivalent provision.	SECTION 4.01-4.04.	Same as Senate version.
SECTION 4. Saving provision.	No equivalent provision.	Same as Senate version.
SECTION 5. Effective date.	SECTION 4.05. Same as House version except Section 2308.504, Occupations Code, as added by this Act, and Subchapters C and D, Chapter 2308, Occupations Code, as added by this Act, take effect September 1, 2008.	Same as Senate version.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 26, 2007

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Tom Craddick, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2094** by Hill (Relating to the regulation of the towing and storage of vehicles.), **Conference Committee Report**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2094, Conference Committee Report: an impact of $0 through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	$0
2009	$0
2010	$0
2011	$0
2012	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1
2008	($5,058,403)	$5,058,403
2009	($4,333,213)	$4,333,213
2010	($4,336,999)	$4,336,999
2011	($4,338,434)	$4,338,434
2012	($4,337,010)	$4,337,010

Fiscal Year	Change in Number of State Employees from FY 2007
2008	66.0
2009	66.0
2010	66.0
2011	66.0
2012	66.0

Fiscal Analysis

The bill would amend the Transportation Code to require a court to notify the vehicle storage facility in which a vehicle was placed of the date, time, and place of a hearing regarding the removal of the vehicle. The notification would be in addition to the notification required under current statute to notify the person who requested the hearing and the person or law enforcement agency that authorized removal of the vehicle.

The bill would amend the Occupations Code, Transportation Code, and the Code of Criminal Procedure to transfer the powers and duties of the Texas Department of Transportation (TXDOT) to the Department of Licensing and Regulation (TDLR) related to the licensing and regulation of vehicle storage facilities. The bill would require TDLR to license each employee of a vehicle storage facility. The bill would provide TDLR the authority to inspect vehicle storage facilities and conduct an examination of any criminal conviction of an applicant.

The bill would authorize TDLR to collect fees sufficient to cover the costs of the licensing and regulation of vehicle towing. The bill also would require the governing body of a political subdivision to regulate the fees that may be charged or collected in connection with a nonconsent tow originating in the territory of the political subdivision.

The bill would establish the Towing and Storage Advisory Board and includes details of board membership requirements and allow the reimbursement of board member expenses.

The bill would authorize TDLR to issue tow truck permits and includes tow truck permit requirements for the incident management towing permit, private property towing permit, and the consent towing permit. The bill would require tow trucks to display certain information, have financial responsibility, and require TDLR to issue cab cards.

The bill would authorize TDLR to issue tow truck operator's licenses and includes tow truck operator's license requirements for the incident management towing operator's license, private property towing operator's license, and the consent towing operator's license. The bill would require tow trucks operators to pass an examination for certain licenses, complete continuing education, and provides license issuance requirements.

The bill would provide TDLR the authority to issue administrative penalties and cease and desist orders related to towing. The bill also would provide penalties for certain violations related to towing.

The bill would require TDLR and TXDOT to enter into a memorandum of understanding regarding the transfer of functions related to tow trucks and towing operations.

The provisions of the bill relating tow truck permit requirements, license requirements of tow truck operators, and to the jurisdiction of a hearing entitled to the owner or operator of a vehicle which has been removed and placed in a vehicle storage facility without the consent of the owner or operator would take effect September 1, 2008. The provision of the bill relating to the continuing education of tow truck operators would take effect September 1, 2009. The remaining provisions of the bill would take effect September 1, 2007.

Methodology

Based on information provided by TDLR, this analysis assumes that a licensing population of 2,500 vehicle storage facilities, 28,380 tow trucks, and 56,760 tow truck operators.

It is assumed that 5.0 FTEs would be transferred from TXDOT to TDLR for the licensing and regulation of the vehicle storage facilities and that these positions would be funded with General Revenue instead of State Highway Fund No. 006, which currently funds the positions at TxDOT. These positions are included in the total FTEs listed in the table above. It is also assumed that any savings of State Highway Fund No. 006 that would be realized as a result of the provisions of the bill would be applied to other transportation projects.

This analysis assumes that TDLR would have a cost associated with the licensing and regulation of vehicle storage facilities, tow trucks, and tow truck operators. Based on the

analysis of TDLR, it is assumed that licensing and regulating this population would necessitate additional resources at a cost of $9,391,615 through 2009.

Based on information provided by TDLR, it is assumed that costs for staff would be $2,758,416 for 66.0 FTEs in each fiscal year from 2008 through fiscal year 2012. Other operating expenses and equipment are estimated to be $1,519,631 in fiscal year 2008, $794,441 in fiscal year 2009, $798,227 in fiscal year 2010, $799,662 in fiscal year 2011, and $798,238 in fiscal year 2012. Estimated costs also include $780,356 in each fiscal year from 2008 through fiscal year 2012 for associated benefits.

This analysis assumes that any increased costs resulting from this bill would be offset by an increase in fee-generated revenue.

Technology

The technology impact to TDLR would be $184,208 in fiscal year 2008, $12,158 in fiscal year 2009, $15,944 in fiscal year 2010, $17,379 in fiscal year 2011, and $15,955 in fiscal year 2012.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 452 Department of Licensing and Regulation, 601 Department of Transportation, 405 Department of Public Safety

LBB Staff: JOB, KJG, SD, MW, AH

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 26, 2007

Date

07 MAY 27 AM 2:16
HOUSE OF REPRESENTATIVES

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 2094 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Senator John Carona, Chair	Representative Fred Hill, Chair
Senator Craig Eaton	Representative Joseph "Joe" Deshotel
Senator Rodney Ellis	Representative Jim Jackson
Senator Jeff Wentworth	Representative Mike Krusee
On the part of the Senate Senator John Whitmire	On the part of the House Representative Larry Phillips

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 2094

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of the towing and storage of vehicles.

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

ARTICLE 1. LICENSING AND REGULATION OF TOWING AND VEHICLE STORAGE

SECTION 1.01. Sections 2303.002(2), (3), and (4), Occupations Code, are amended to read as follows:

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

(3) "Department" means the Texas Department of Licensing and Regulation [~~Transportation~~].

(4) "Executive director [~~Director~~]" means the executive director of the department [~~or a person designated by the executive director who is not below the rank of division or special office director~~].

SECTION 1.02. Section 2303.051, Occupations Code, is amended to read as follows:

Sec. 2303.051. RULEMAKING: LICENSE REQUIREMENTS[~~; SANCTIONS~~]. The commission shall adopt rules that:

(1) establish the requirements for a person to be licensed to operate a vehicle storage facility to ensure that the facility maintains adequate standards for the care of stored vehicles; [~~and~~]

(2) relate to the administrative sanctions that may be imposed on a person licensed under this chapter;

(3) govern the administration of this chapter.

SECTION 1.03. Subchapter B, Chapter 2303, Occupations Code, is amended by adding Sections 2303.055, 2303.056, 2303.057, and 2303.058 to read as follows:

Sec. 2303.055. EXAMINATION OF CRIMINAL CONVICTION. The department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.

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.

Sec. 2303.057. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter.

Sec. 2303.058. ADVISORY BOARD. The Towing and Storage Advisory Board under Chapter 2308 shall advise the commission in adopting vehicle storage rules under this chapter.

SECTION 1.04. The heading to Section 2303.101, Occupations Code, is amended to read as follows:

Sec. 2303.101. FACILITY LICENSE REQUIRED.

SECTION 1.05. Subchapter C, Chapter 2303, Occupations Code, is amended by adding Section 2303.1015 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.

(b) The commission shall adopt rules governing the application for and issuance of a license under this section.

SECTION 1.06. Sections 2303.102(a) and (b), Occupations Code, are amended to read as follows:

(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 executive director.

(b) The rules adopted [~~by the commission~~] under this section must require an [~~the~~] application for a facility license [~~to be made under oath and~~] to list:

(1) the name and address of each partner, if the applicant is a partnership; and

(2) the name and address of the president, secretary, and treasurer of the corporation, if the applicant is a corporation [~~; and~~

[~~(3) each conviction of a felony, or of a misdemeanor punishable by confinement in jail or by a fine exceeding $200, that was obtained against the applicant or a partner or officer of the applicant in the three years preceding the date of application~~].

SECTION 1.07. Section 2303.151(c), Occupations Code, is amended to read as follows:

(c) It is a defense to an action initiated by the department for a violation of this section that the operator of the facility unsuccessfully attempted in writing or electronically to obtain information from the governmental entity with which the vehicle is registered.

SECTION 1.08. Section 2303.155(b), Occupations Code, is amended to read as follows:

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

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

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

(A) is taken by or at the direction of the owner 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) $35 for each day or part of a day the vehicle is stored at the facility if the vehicle is longer than 25 feet; [~~and~~]

(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.

SECTION 1.09. Subchapter D, Chapter 2303, Occupations Code, is amended by adding Section 2303.160 to read as follows:

Sec. 2303.160. DRUG TESTING OF EMPLOYEES. (a) A license holder shall establish a drug testing policy for employees of the vehicle storage facility operated by the license holder. A license holder that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted by the commission.

(b) The commission by rule shall adopt a model drug testing policy for use by license holders. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. The model drug testing policy must:

(1) require at least one scheduled drug test each year for each employee of a vehicle storage facility who has direct contact with the public; and

(2) authorize random, unannounced drug testing for employees described by Subdivision (1).

SECTION 1.10. Section 2303.302, Occupations Code, is amended to read as follows:

Sec. 2303.302. CRIMINAL PENALTIES. (a) A person commits an offense if the person:

(1) violates the licensing requirements of [~~operates a vehicle storage facility for which a license has not been issued under~~] this chapter; or

(2) employs an individual who does not hold an appropriate license required by [~~violates a rule adopted by the commission under~~] this chapter.

(b) An offense under this section is a Class C misdemeanor [~~punishable by a fine of not less than $200 and not more than $500~~].

[~~(c) A person commits a separate offense for each day the person violates this section.~~]

SECTION 1.11. Subchapter G, Chapter 2303, Occupations Code, is amended by adding Sections 2303.304 and 2303.305 to read as follows:

Sec. 2303.304. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates:

(1) this chapter or a rule adopted under this chapter; or

(2) a rule or order of the executive director or commission.

(b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 2303.305. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

SECTION 1.12. Subtitle A, Title 14, Occupations Code, is amended by adding Chapter 2308 to read as follows:

CHAPTER 2308. VEHICLE TOWING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2308.001. SHORT TITLE. This chapter may be cited as the Texas Towing Act.

Sec. 2308.002. DEFINITIONS. In this chapter:

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

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

(3) "Consent tow" means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.

(4) "Department" means the Texas Department of Licensing and Regulation.

(5) "Driver's license" has the meaning assigned by Section 521.001, Transportation Code.

(6) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow.

(7) "Parking facility" means public or private property used, wholly or partly, for restricted or paid vehicle parking. The term includes:

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

(B) a commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, home, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including:

(i) a portion of the right-of-way of a

public roadway that is leased by a governmental entity to the parking facility owner; and

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

(8) "Parking facility owner" means:

(A) an owner or operator of a parking facility, including a lessee, employee, or agent of an owner or operator;

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

(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.

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

(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.

(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.

(12) "Towing company" means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a

public roadway in this state but does not include a political subdivision of the state.

(13) "Unauthorized vehicle" means a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner.

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

(15) "Vehicle owner" means a person:

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

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

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

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

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

(16) "Vehicle storage facility" means a vehicle storage facility, as defined by Section 2303.002, that is operated by a person who holds a license issued under Chapter 2303 to operate

the facility.

Sec. 2308.003. STUDY OF NONCONSENT TOWING FEES. (a) The department shall study the fees charged by license and permit holders for nonconsent tows, compliance of license and permit holders with local regulations governing towing fees, and consumer complaints related to fees for nonconsent tows. Not later than January 1, 2009, the department shall report to the legislature the findings of the study, including any recommendations for state regulation of towing fees.

(b) This section expires September 1, 2009.

[Sections 2308.004-2308.050 reserved for expansion]

SUBCHAPTER B. ADVISORY BOARD

Sec. 2308.051. TOWING AND STORAGE ADVISORY BOARD. (a) The advisory board consists of the following members appointed by the presiding officer of the commission with the approval of the commission:

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

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

(3) one owner of a vehicle storage facility located in a county with a population of less than one million;

(4) one owner of a vehicle storage facility located in a county with a population of one million or more;

(5) one parking facility owner;

(6) one law enforcement officer from a county with a population of less than one million;

(7) one law enforcement officer from a county with a population of one million or more; and

(8) one representative of property and casualty insurers who write automobile insurance in this state.

(b) The advisory board must include representation for each classification of towing.

(c) An appointment to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 2308.052. TERMS; VACANCIES. (a) Advisory board members serve terms of six years, with the terms of two or three members, as appropriate, expiring on February 1 of each odd-numbered year.

(b) A member may not serve more than two full consecutive terms.

(c) If a vacancy occurs during a term, the presiding officer of the commission shall appoint a replacement who meets the qualifications of the vacated position to serve for the remainder of the term.

Sec. 2308.053. PRESIDING OFFICER. The presiding officer of the commission shall appoint one of the advisory board members to serve as presiding officer of the advisory board for a term of one year. The presiding officer of the advisory board may vote on any matter before the advisory board.

Sec. 2308.054. COMPENSATION; REIMBURSEMENT OF EXPENSES. Advisory board members may not receive compensation but are entitled to reimbursement for actual and necessary expenses

incurred in performing the functions of the advisory board, subject to the General Appropriations Act.

Sec. 2308.055. MEETINGS. The advisory board shall meet twice annually and may meet at other times at the call of the presiding officer of the commission or the executive director.

Sec. 2308.056. GENERAL POWERS AND DUTIES. The executive director or commission, as appropriate, may take action as necessary to administer and enforce this chapter.

Sec. 2308.057. RULES. (a) The commission shall adopt rules for permitting tow trucks and licensing towing operators and towing companies.

(b) The commission by rule shall adopt standards of conduct for license and permit holders under this chapter.

Sec. 2308.058. FEES. The commission shall establish and collect reasonable and necessary fees in amounts sufficient to cover the costs of administering this chapter.

Sec. 2308.059. 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 or permit holder is in violation of this chapter or in violation of a rule or order of the commission or executive director.

(b) 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 towing company or operator;

(2) the inspection history;

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

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

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

(d) In conducting an inspection under this section, the department may inspect a vehicle, a facility, business records, or any other place or thing reasonably required to enforce this chapter or a rule or order adopted under this chapter.

Sec. 2308.060. POWERS AND DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration and enforcement of this chapter, including examination content, licensing standards, and continuing education requirements.

Sec. 2308.061. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter.

[Sections 2308.062-2308.100 reserved for expansion]

SUBCHAPTER C. TOW TRUCK PERMIT REQUIREMENTS

Sec. 2308.101. PERMIT REQUIRED. A tow truck may not be used for consent towing or nonconsent towing on a public roadway in this state unless an appropriate permit has been issued for the tow truck

under this subchapter. Each tow truck requires a separate permit.

Sec. 2308.102. APPLICATION REQUIREMENTS. (a) An applicant for a permit under this subchapter must submit to the department:

(1) a completed application on a form prescribed by the executive director;

(2) evidence of insurance or financial responsibility required under this subchapter;

(3) the required fees; and

(4) any other information required by the executive director.

(b) The department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.

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(e), Transportation Code.

Sec. 2308.104. REQUIREMENTS FOR PRIVATE PROPERTY TOWING PERMIT. (a) A private property towing permit is required for a tow truck used to perform a nonconsent tow authorized by a parking facility owner under this chapter.

(b) To be eligible for a private property 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 $300,000 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 consent towing but not for incident management towing.

Sec. 2308.105. REQUIREMENTS FOR CONSENT TOWING PERMIT. (a) A consent towing permit is required for a tow truck used to perform a consent tow authorized by the vehicle owner.

(b) To be eligible for a consent 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; and

(2) the applicant has at least $300,000 of liability insurance for the tow truck.

(c) A tow truck permitted under this section may not be used for nonconsent towing, including incident management towing and private property towing.

Sec. 2308.106. DEPARTMENT APPROVAL; ISSUANCE OF PERMIT. (a) The department shall issue a permit under this subchapter to an applicant who meets the requirements for a permit. The department may deny an application if the applicant has had a permit revoked under this chapter.

(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.

Sec. 2308.107. PERMIT RENEWAL. (a) A permit issued under this chapter is valid for one year. The department may adopt a system under which permits expire at different times during the year.

(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 address according to the records of the department.

(c) A permit holder may renew a permit under this chapter by:

(1) paying a fee for each tow truck; and

(2) providing to the department evidence of continuing

insurance or financial responsibility in an amount required by this chapter.

Sec. 2308.108. CAB CARDS. (a) The department shall issue a cab card for each tow truck issued a permit. The cab card must:

(1) show the permit number of the certificate issued under Section 2308.106(b);

(2) show the type of permit issued;

(3) show the vehicle unit number;

(4) show the vehicle identification number; and

(5) contain a statement that the vehicle has been issued a permit under this subchapter.

(b) The department shall issue a cab card when the department issues or renews a permit under this subchapter.

(c) A permit holder must keep the cab card in the cab of each permitted tow truck.

(d) The department may order a permit holder to surrender a cab card if the permit is suspended or revoked under this chapter.

(e) If the department determines that the cab card system described by Subsections (a) through (c) is not an efficient means of enforcing this subchapter, the executive director by rule may adopt an alternative method that is accessible by law enforcement personnel in the field and provides for the enforcement of the permit requirements of this subchapter.

(f) A cab card or a permit issued under the alternative method described in Subsection (e) must be valid for the same duration as a certificate issued under Section 2308.106.

Sec. 2308.109. DISPLAY OF INFORMATION ON TOW TRUCK. (a) A

permit holder shall display on each permitted tow truck:

(1) the permit holder's name;

(2) the permit holder's telephone number;

(3) the city and state where the permit holder is located; and

(4) the permit number for the tow truck.

(b) The information required to be displayed must be:

(1) printed in letters and numbers that are at least two inches high and in a color that contrasts with the color of the background surface; and

(2) permanently affixed in conspicuous places on both sides of the tow truck.

Sec. 2308.110. FINANCIAL RESPONSIBILITY. (a) A permit holder shall maintain liability insurance for each tow truck according to the requirements under this subchapter.

(b) Unless state law permits a tow truck to be self-insured, any insurance required for a tow truck must be obtained from an insurer authorized to do business in this state.

(c) An applicant or permit holder must file with the department evidence of insurance as required by this subchapter.

(d) A permit holder shall keep evidence of insurance in a form approved by the department in the cab of each permitted tow truck.

[Sections 2308.111-2308.150 reserved for expansion]

SUBCHAPTER D. LICENSE REQUIREMENTS

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.

Sec. 2308.152. GENERAL LICENSE APPLICATION REQUIREMENTS. An applicant for a license under this subchapter must submit to the department:

(1) a completed application on a form prescribed by the executive director;

(2) the required fees; and

(3) any other information required by commission rule.

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) be a licensed Texas driver; and

(2) be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by the department.

Sec. 2308.154. PRIVATE PROPERTY TOWING OPERATOR'S LICENSE. (a) A private property towing operator's license is required to operate a tow truck permitted under Section 2308.104.

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

(1) be a licensed Texas driver; and

(2) be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by the department.

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

(b) An applicant for a consent towing operator's license must be a licensed Texas driver.

Sec. 2308.156. NONTRANSFERABILITY OF LICENSE. A license issued by the executive director is valid throughout this state and is not transferable.

Sec. 2308.157. CONTINUING EDUCATION. (a) The commission by rule shall recognize, prepare, or administer continuing education programs for license holders. Except as provided by Subsection (c), each license holder must complete a continuing education program before the license holder may renew the license holder's license.

(b) A person recognized by the commission to offer a continuing education program must:

(1) register with the department; and

(2) comply with rules adopted by the commission relating to continuing education.

(c) To renew an incident management towing operator's license the first time, a license holder must complete a professional development course relating to towing that is licensed or certified by the National Safety Council or another course approved and administered by the department under this section.

Sec. 2308.158. DRUG TESTING OF TOWING OPERATORS. (a) A towing company shall establish a drug testing policy for towing

operators. A towing company that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted by the commission.

(b) The commission by rule shall adopt a model drug testing policy for use by a towing company. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. The model drug testing policy must:

(1) require at least one scheduled drug test each year for each towing operator; and

(2) authorize random, unannounced drug testing for towing operators.

Sec. 2308.159. LICENSE RENEWAL. (a) A license issued under this subchapter is valid for one year. The department may adopt a system under which licenses expire at different times during the year.

(b) The department shall notify the license holder at least 30 days before the date a license expires. The notice must be in writing and sent to the license holder's last known address according to the records of the department.

(c) A license holder may renew a license issued under this chapter by:

(1) paying a renewal fee; and

(2) completing continuing education as required by Section 2308.157.

ARTICLE 2. CONSOLIDATION OF LAWS RELATED TO TOWING

SECTION 2.01. Sections 643.201 and 643.203 through 643.208, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter E, Chapter 2308, Occupations Code, renumbered as Sections 2308.201 through 2308.207, Occupations Code, and amended to read as follows:

SUBCHAPTER E. LOCAL REGULATION OF TOWING

Sec. 2308.201 [~~643.201~~]. TOW TRUCK REGULATION BY POLITICAL SUBDIVISIONS. (a) A [~~In addition to the registration requirements of Subchapter B, a~~] political subdivision of this state may regulate the operation of a tow truck to the extent allowed by federal law, except that a political subdivision may not issue a more restrictive regulation for the use of lighting equipment on a tow truck than is imposed by Title 7, Transportation Code [~~this title~~].

(b) A political subdivision may not require the registration of a tow truck that performs consent tows in the political subdivision unless the owner of the tow truck has a place of business in the territory of the political subdivision.

(c) A political subdivision may require the registration of a tow truck that performs a nonconsent tow in the political subdivision, regardless of whether the owner of the tow truck has a place of business in the territory of the political subdivision.

(d) A political subdivision may not require a person who holds a driver's license or commercial driver's license to obtain a license or permit for operating a tow truck unless the person performs nonconsent tows in the territory of the political

subdivision. A fee charged for a license or permit may not exceed $15.

[~~(c) In this section:~~

[~~(1) "Commercial driver's license" has the meaning assigned by Section 522.003.~~

[~~(2) "Consent tow" means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.~~

[~~(3) "Driver's license" has the meaning assigned by Section 521.001.~~

[~~(4) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow.~~]

Sec. 2308.202 [~~643.203~~]. REGULATION BY POLITICAL SUBDIVISIONS OF FEES FOR NONCONSENT TOWS. The governing body of a political subdivision may regulate the fees that may be charged or collected in connection with a nonconsent tow originating in the territory of the political subdivision.

Sec. 2308.203 [~~643.204~~]. TOWING FEE STUDIES. (a) The governing body of a political subdivision that regulates nonconsent tow fees shall establish procedures by which a towing company may request that a towing fee study be performed.

(b) The governing body of the political subdivision shall establish or amend the allowable fees for nonconsent tows at amounts that represent the fair value of the services of a towing

company and are reasonably related to any financial or accounting information provided to the governing body.

Sec. 2308.204 [~~643.205~~]. FEES FOR NONCONSENT TOWS IN OTHER AREAS. (a) In an area in which no political subdivision regulates the fees that may be charged or collected for a nonconsent tow from private property, a towing company may charge and collect a fee for the tow of a motor vehicle from private property in an amount not to exceed an amount equal to 150 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.

(b) A towing company may charge and collect a fee for the tow of a vehicle, with a gross vehicle weight rating in excess of 26,000 pounds, from private property in an amount not to exceed an amount equal to 125 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.

Sec. 2308.205 [~~643.206~~]. STORAGE OF TOWED VEHICLES. (a) A towing company that makes a nonconsent tow shall tow the vehicle to a vehicle storage facility that is operated by a person who holds a license to operate the facility under Chapter 2303, [~~Occupations Code,~~] unless the towing company agrees to take the vehicle to a location designated by the vehicle's owner.

(b) A storage or notification fee imposed in connection with a motor vehicle towed to a vehicle storage facility is governed by Chapter 2303[~~, Occupations Code~~].

(c) Except as provided by this chapter, Article 18.23, Code of Criminal Procedure, or Chapter 2303[~~, Occupations Code~~], a fee may not be charged or collected without the prior written consent of the vehicle owner or operator.

Sec. 2308.206 [~~643.207~~]. REQUIRED FILING. (a) Before January 31 of each year, a towing company shall file with the department a schedule showing each towing fee that the towing company charges or collects in connection with a nonconsent tow.

(b) If a political subdivision begins regulating nonconsent tow fees, the fees shall be reported to the department by the towing company before the 30th day after the regulation goes into effect.

(c) Any changes in nonconsent tow fees regulated by a political subdivision shall be reported to the department by the towing company before the 30th day after the effective date of the change.

(d) The department shall make towing fee schedules available on the department's Internet website. The department shall make no determination as to the reasonableness of a towing fee schedule.

(e) A license or permit holder may not charge a fee for a nonconsent tow that is greater than the fee listed in the schedule most recently submitted to the department under this section.

Sec. 2308.207 [~~643.208~~]. REQUIRED POSTING. (a) All [~~towing and~~] storage fees shall be posted at the licensed vehicle storage facility to which the motor vehicle has been delivered and shall be posted in view of the person who claims the vehicle.

(b) A vehicle storage facility accepting a nonconsent towed

vehicle shall post a sign in one inch letters stating "Nonconsent tow fees schedules available on request." The vehicle storage facility shall provide a copy of a nonconsent towing fees schedule on request.

SECTION 2.02. Section 684.101, Transportation Code, is transferred to Subchapter E, Chapter 2308, Occupations Code, and renumbered as Section 2308.208, Occupations Code, to read as follows:

Sec. 2308.208 [~~684.101~~]. MUNICIPAL ORDINANCE REGULATING UNAUTHORIZED VEHICLES. A municipality may adopt an ordinance that is identical to this chapter or that imposes additional requirements that exceed the minimum standards of this chapter but may not adopt an ordinance conflicting with this chapter.

SECTION 2.03. Sections 684.011, 684.012, 684.0125, 684.013, 684.014, and 684.015, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter F, Chapter 2308, Transportation Code, renumbered as Sections 2308.251 through 2308.256, Occupations Code, and amended to read as follows:

SUBCHAPTER F. UNAUTHORIZED VEHICLES

Sec. 2308.251 [~~684.011~~]. PROHIBITION AGAINST UNATTENDED VEHICLES IN CERTAIN AREAS. (a) The owner or operator of a vehicle may not 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;

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

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

(4) does not display the special license plates issued under Section 504.201, Transportation Code, or the disabled parking placard issued under Chapter 681, Transportation Code, for a vehicle transporting a disabled person and is in a parking space that is designated for the exclusive use of a vehicle transporting a disabled person.

(b) Subsection (a) does not apply to an emergency vehicle that is owned by, or the operation of which is authorized by, a governmental entity.

(c) If a government regulation governing the marking of a fire lane applies to a parking facility, a fire lane in the facility must be marked as provided by the regulation. If a government regulation on the marking of a fire lane does not apply to the parking facility, all curbs of fire lanes must be painted red and be conspicuously and legibly marked with the warning "FIRE LANE--TOW AWAY ZONE" in white letters at least three inches tall, at intervals not exceeding 50 feet.

Sec. 2308.252 [~~684.012~~]. REMOVAL AND STORAGE OF UNAUTHORIZED VEHICLE. (a) A parking facility owner may, without the consent of the owner or operator of an unauthorized vehicle, cause the vehicle and any property on or in the vehicle to be removed and stored at a vehicle storage facility at the vehicle owner's or operator's expense if:

(1) signs that comply with Subchapter G [~~C~~] prohibiting unauthorized vehicles are located on the parking

facility at the time of towing and for the preceding 24 hours and remain installed at the time of towing;

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

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

(4) the vehicle is:

(A) left in violation of Section 2308.251 [~~684.011~~] or 2308.253 [~~684.0125~~]; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility [~~and the removal is approved by a peace officer~~].

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

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

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

(B) a description of all other unauthorized areas in the parking facility;

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

(D) a telephone number that is answered 24 hours

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

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

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

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

(2) describe all other unauthorized areas in the parking facility;

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

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

(d) The mailing of a notice under Subsection (b)(2) is not required if after the notice is attached under Subsection (b)(1) the owner or operator of the vehicle leaves the vehicle in another location where parking is unauthorized for the vehicle according to the notice.

Sec. 2308.253 [~~684.0125~~]. UNATTENDED VEHICLES ON PARKING FACILITY OF APARTMENT COMPLEX; REMOVAL AND STORAGE OF VEHICLES.

(a) This section applies only to a parking facility serving or adjacent to an apartment complex consisting of one or more residential apartment units and any adjacent real property serving the apartment complex.

(b) The owner or operator of a vehicle may not leave unattended on a parking facility a vehicle that:

(1) obstructs a gate that is designed or intended for the use of pedestrians or vehicles;

(2) obstructs pedestrian or vehicular access to an area that is used for the placement of a garbage or refuse receptacle used in common by residents of the apartment complex;

(3) is in or obstructs a restricted parking area or parking space designated under Subchapter G [~~C~~], including a space designated for the use of employees or maintenance personnel of the parking facility or apartment complex;

(4) is in a tow away zone, other than a fire lane covered by Section 2308.251(c) [~~684.011(c)~~], that is brightly painted and is conspicuously and legibly marked with the warning "TOW AWAY ZONE" in contrasting letters at least three inches tall;

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

(6) is leaking a fluid that presents a hazard or threat to persons or property.

(c) A parking facility owner may not have an emergency

vehicle described by Section 2308.251(b) [~~684.011(b)~~] removed from the parking facility.

(d) Except as provided by a contract described by Subsection (e), a parking facility owner may not have a vehicle removed from the parking facility merely because the vehicle does not display:

(1) 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; or

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

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

(1) delivered in person to the owner or operator of the vehicle; or

(2) sent by certified mail, return receipt requested, to that owner or operator.

(f) This section may not be construed:

(1) to authorize the owner or operator of a vehicle to leave an unattended vehicle on property that is not designed or

intended for the parking of vehicles; or

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

(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.

Sec. 2308.254 [~~684.013~~]. LIMITATION ON PARKING FACILITY OWNER'S AUTHORITY TO REMOVE UNAUTHORIZED VEHICLE. A parking facility owner may not have an unauthorized vehicle removed from the facility except:

(1) as provided by this chapter or a municipal ordinance that complies with Section 2308.208 [~~684.101~~]; or

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

Sec. 2308.255 [~~684.014~~]. TOWING COMPANY'S AUTHORITY TO REMOVE AND STORE UNAUTHORIZED VEHICLE. (a) A towing company that is insured as provided by Subsection (c) may, without the consent of an owner or operator of an unauthorized vehicle, remove and store the vehicle at a vehicle storage facility at the expense of the owner or operator of the vehicle if:

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

(A) the parking facility owner has installed the signs required by Section 2308.252(a)(1) [~~684.012(a)(1)~~]; or

(B) the owner or operator received notice under Section 2308.252(a)(2) [~~684.012(a)(2)~~] or the parking facility

owner gave notice complying with Section 2308.252(a)(3) [~~684.012(a)(3)~~]; or

(2) the vehicle is:

(A) left in violation of Section 2308.251 [~~684.011~~]; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility and the removal is approved by a peace officer.

(b) A towing company may not remove an unauthorized vehicle except under:

(1) this chapter;

(2) a municipal ordinance that complies with Section 2308.208 [~~684.101~~]; or

(3) the direction of a peace officer or the owner or operator of the vehicle.

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

(d) A towing company may remove and store a vehicle under Subsection (a) only if the parking facility owner:

(1) requests that the towing company remove and store the specific vehicle; or

(2) has a standing written agreement with the towing company to enforce parking restrictions in the parking facility from which the vehicle will be removed.

Sec. 2308.256 [~~684.015~~]. VEHICLE STORAGE FACILITY'S DUTY TO REPORT AFTER ACCEPTING UNAUTHORIZED VEHICLE. (a) A vehicle

storage facility accepting a vehicle that is towed under this chapter shall within two hours after receiving the vehicle report to the police department of the municipality in which the parking facility is located, or, if the parking facility is not located in a municipality having a police department, to the sheriff of the county in which the parking facility is located:

(1) a general description of the vehicle;

(2) the state and number of the vehicle's license plate, if any;

(3) the vehicle identification number of the vehicle, if it can be ascertained;

(4) the location from which the vehicle was towed; and

(5) the name and location of the vehicle storage facility where the vehicle is being stored.

(b) The report required by this section must be made by telephone or delivered personally or by facsimile.

SECTION 2.04. Subchapter C, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter G, Chapter 2308, Occupations Code, and Sections 684.031 through 684.035, Transportation Code, are renumbered as Sections 2308.301 through 2308.305, Occupations Code, and amended to read as follows:

SUBCHAPTER G [~~C~~]. SIGNS PROHIBITING UNAUTHORIZED VEHICLES AND DESIGNATING RESTRICTED AREAS

Sec. 2308.301 [~~684.031~~]. GENERAL REQUIREMENTS FOR SIGN PROHIBITING UNAUTHORIZED VEHICLES. (a) Except as provided by Subsection (a)(2)(B) and Section 2308.304 [~~684.034~~] or 2308.305

[~~684.035~~] an unauthorized vehicle may not be towed under Section 2308.252(a)(1) [~~684.012(a)(1)~~] unless a sign prohibiting unauthorized vehicles on a parking facility is:

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

(2) located:

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

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

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

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

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

(4) installed on the parking facility; and

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

(b) Except as provided by Section 2308.305 [~~684.035~~], an unauthorized vehicle may be towed under Section 2308.252(a)(1) [~~684.012(a)(1)~~] 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 "Unauthorized Vehicles Will Be Towed at Owner's or Operator's Expense";

(6) contains a statement of the days and hours of towing 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 the vehicle.

Sec. 2308.302 [~~684.032~~]. COLOR, LAYOUT, AND LETTERING HEIGHT REQUIREMENTS. (a) Except as provided by Section 2308.305 [~~684.035~~], each sign required by this chapter must comply with the color, layout, and lettering height requirements of this section.

(b) A bright red international towing symbol, which is a solid silhouette of a tow truck towing a vehicle on a generally rectangular white background, at least four inches in height, must be on the uppermost portion of a sign or on a separate sign placed immediately above the sign.

(c) The portion of the sign immediately below the international towing symbol must contain the words "Towing Enforced" or the information provided by Section 2308.301(b)(4) [~~684.031(b)(4)~~] in lettering at least two inches in height. The lettering on this portion of the sign must consist of white letters on a bright red background.

(d) Except as provided by Subsection (e), the next lower portion of the sign must contain the remaining information required by Section 2308.301(b) [~~684.031(b)~~] displayed in bright red letters at least one inch in height on a white background.

(e) The bottommost portion of the sign must contain the telephone number required by Section 2308.301(b) [~~684.031(b)~~], in lettering at least one inch in height and may, if the facility owner chooses or if an applicable municipal ordinance requires, include the name and address of the storage facility to which an unauthorized vehicle will be removed. The lettering on this portion of the sign must consist of white letters on a bright red background.

Sec. 2308.303 [~~684.033~~]. TELEPHONE NUMBER FOR LOCATING TOWED VEHICLE REQUIRED. If a parking facility owner posts a sign described by Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~], the owner of a vehicle that is towed from the facility under this chapter must be able to locate the vehicle by calling the telephone number on the sign.

Sec. 2308.304 [~~684.034~~]. DESIGNATION OF RESTRICTED PARKING SPACES ON OTHERWISE UNRESTRICTED PARKING FACILITY. A parking facility owner may designate one or more spaces as restricted parking spaces on a portion of an otherwise unrestricted parking facility. Instead of installing a sign at each entrance to the parking facility as provided by Section 2308.301(a)(2) [~~684.031(a)(2)~~], an owner may place a sign that prohibits unauthorized vehicles from parking in designated spaces and that otherwise complies with Sections 2308.301 [~~684.031~~] and 2308.302

[~~684.032~~]:

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

(2) at the end of a restricted parking space so that the sign, the top of which must not be higher than seven feet above the ground, is in front of a vehicle that is parked in the space and the rear of which is at the entrance of the space.

Sec. 2308.305 [~~684.035~~]. INDIVIDUAL PARKING RESTRICTIONS IN RESTRICTED AREA. (a) A parking facility owner who complies with Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~] may impose further specific parking restrictions in an area to which the signs apply for individual spaces by installing or painting a weather-resistant sign or notice on a curb, pole, post, permanent wall, or permanent barrier so that the sign is in front of a vehicle that is parked in the space and the rear of which is at the entrance of the space.

(b) The top of the sign or notice may not be higher than seven feet above the ground.

(c) The sign or notice must include an indication that the space is reserved for a particular unit number, person, or type of person.

(d) The letters on the sign or notice must be at least two inches in height and must contrast to the color of the curb, wall, or barrier so they can be read during the day and at night. The letters are not required to be illuminated or made of reflective material.

SECTION 2.05. Subchapter D, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter H, Chapter 2308, Occupations Code, and Sections 684.051 through 684.054, Transportation Code, are renumbered as Sections 2308.351 through 2308.354, Occupations Code, and amended to read as follows:

SUBCHAPTER H [~~D~~]. REGULATION OF PARKING ON CERTAIN PUBLIC ROADWAY AREAS

Sec. 2308.351 [~~684.051~~]. REMOVAL OF UNAUTHORIZED VEHICLE FROM LEASED RIGHT-OF-WAY. Unless prohibited by the lease, a parking facility owner or towing company may remove an unauthorized vehicle parked in a leased area described by Section 2308.002(7)(B)(i) [~~684.001(1)(B)(i)~~] if the owner or towing company gives notice under Section 2308.252(a)(1), (2), or (3) [~~684.012(a)(1), (2), or (3)~~] and otherwise complies with this chapter.

Sec. 2308.352 [~~684.052~~]. REMOVAL OF UNAUTHORIZED VEHICLE FROM AREA BETWEEN PARKING FACILITY AND PUBLIC ROADWAY. Unless prohibited by a municipal ordinance, a parking facility owner or towing company may remove an unauthorized vehicle any part of which is in an area described by Section 2308.002(7)(B)(ii) [~~684.001(1)(B)(ii)~~] if notice provided by Section 2308.252(a)(2) or (3) [~~684.012(a)(2) or (3)~~] is given and the owner or towing company has otherwise complied with this chapter.

Sec. 2308.353 [~~684.053~~]. REMOVAL UNDER GOVERNMENTAL ENTITY'S AUTHORITY OF UNAUTHORIZED VEHICLE PARKED IN RIGHT-OF-WAY. (a) A governmental entity that has jurisdiction over a public

roadway and that has posted one or more signs in the right-of-way stating that parking is prohibited in the right-of-way may:

(1) remove or contract with a towing company to remove an unauthorized vehicle parked in the right-of-way of the public roadway; or

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

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

(B) remove vehicles from the right-of-way of the public roadway under this chapter.

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

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

(2) be placed facing the public roadway:

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

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

(3) in all other respects comply with Subchapter G [~~C~~].

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

Sec. 2308.354 [~~684.054~~]. AUTHORITY FOR REMOVAL OF VEHICLE FROM PUBLIC ROADWAY. (a) Under an ordinance of a municipality regulating the parking of vehicles in the municipality, to aid in the enforcement of the ordinance, an employee designated by the municipality may be authorized to:

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

(2) remove an immobilized vehicle from a public roadway in the municipality.

(b) A parking facility owner or towing company may not remove a vehicle from a public roadway except under:

(1) this chapter or a municipal ordinance that complies with Section 2308.208 [~~684.101~~]; or

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

SECTION 2.06. Subchapter E, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter I, Chapter 2308, Occupations Code, and Sections 684.081 through 684.087, Transportation Code, are renumbered as Sections 2308.401 through 2308.407, Occupations Code, to read as follows:

SUBCHAPTER I [~~E~~]. REGULATION OF TOWING COMPANIES AND PARKING FACILITY OWNERS

Sec. 2308.401 [~~684.081~~]. PARKING FACILITY OWNER PROHIBITED FROM RECEIVING FINANCIAL GAIN FROM TOWING COMPANY. (a) A parking facility owner may not directly or indirectly accept anything of value from a towing company in connection with the removal of a

vehicle from a parking facility.

(b) A parking facility owner may not have a direct or indirect monetary interest in a towing company that for compensation removes unauthorized vehicles from a parking facility in which the parking facility owner has an interest.

Sec. 2308.402 [~~684.082~~]. TOWING COMPANY PROHIBITED FROM FINANCIAL INVOLVEMENT WITH PARKING FACILITY OWNER. (a) A towing company may not directly or indirectly give anything of value to a parking facility owner in connection with the removal of a vehicle from a parking facility.

(b) A towing company may not have a direct or indirect monetary interest in a parking facility from which the towing company for compensation removes unauthorized vehicles.

Sec. 2308.403 [~~684.083~~]. LIMITATION ON LIABILITY OF PARKING FACILITY OWNER FOR REMOVAL OR STORAGE OF UNAUTHORIZED VEHICLE. A parking facility owner who causes the removal of an unauthorized vehicle is not liable for damages arising from the removal or storage of the vehicle if the vehicle:

(1) was removed in compliance with this chapter; and

(2) is:

(A) removed by a towing company insured against liability for property damage incurred in towing a vehicle; and

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

Sec. 2308.404 [~~684.084~~]. CIVIL LIABILITY OF TOWING COMPANY OR PARKING FACILITY OWNER FOR VIOLATION OF CHAPTER. (a) A towing

company or parking facility owner who violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for:

(1) damages arising from the removal or storage of the vehicle; and

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

(b) A vehicle's owner or operator is not required to prove negligence of a parking facility owner or towing company to recover under Subsection (a).

(c) A towing 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 $300 plus three times the amount of fees assessed in the vehicle's removal, towing, or storage.

(d) In a suit brought under this chapter, the prevailing party is entitled to recover reasonable attorney's fees.

Sec. 2308.405 [~~684.085~~]. VIOLATION OF CHAPTER; FINE. A violation of this chapter is a misdemeanor punishable by a fine of not less than $500 or more than $1,500.

Sec. 2308.406 [~~684.086~~]. VIOLATION OF CHAPTER; INJUNCTION. A violation of this chapter may be enjoined under Subchapter E, Chapter 17, Business & Commerce Code.

Sec. 2308.407 [~~684.087~~]. MINOR SIGN OR LETTERING HEIGHT VARIATIONS. A minor variation of a required or minimum height of a sign or lettering is not a violation of this chapter.

SECTION 2.07. Sections 685.002 through 685.010,

Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter J, Chapter 2308, Occupations Code, renumbered as Sections 2308.451 through 2308.459, Occupations Code, and amended to read as follows:

SUBCHAPTER J. RIGHTS OF OWNERS AND OPERATORS OF STORED VEHICLES

Sec. 2308.451 [~~685.002~~]. PAYMENT OF COST OF REMOVAL AND STORAGE OF VEHICLE. (a) If in a hearing held under this chapter the court finds that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person who requested the hearing shall pay the costs of the removal and storage.

(b) If in a hearing held under this chapter the court does not find that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person or law enforcement agency that authorized the removal shall:

(1) pay the costs of the removal and storage; or

(2) reimburse the owner or operator for the cost of the removal and storage paid by the owner or operator.

Sec. 2308.452 [~~685.003~~]. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO HEARING. The owner or operator of a vehicle that has been removed and placed in a vehicle storage facility without the consent of the owner or operator of the vehicle is entitled to a hearing on whether probable cause existed for the removal and placement.

Sec. 2308.453 [~~685.004~~]. JURISDICTION. A hearing under this chapter shall be in the justice court having jurisdiction in

the precinct in which the vehicle storage facility is located.

Sec. 2308.454 [~~685.005~~]. NOTICE TO VEHICLE OWNER OR OPERATOR. (a) If before a hearing held under this chapter the owner or operator of a vehicle pays the costs of the vehicle's 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 chapter.

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

Sec. 2308.455 [~~685.006~~]. CONTENTS OF NOTICE. The notice under Section 2308.454 [~~685.005~~] must include:

(1) a statement of:

(A) the person's right to submit a request within 14 days for a court hearing to determine whether probable cause existed to remove the vehicle;

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

(C) any filing fee for the hearing;

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

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

(4) the name, address, and telephone number of the person, property owner, or law enforcement agency that authorized

the removal of the vehicle; and

(5) the name, address, and telephone number of the justice court having jurisdiction in the precinct in which the vehicle storage facility is located.

Sec. 2308.456 [~~685.007~~]. REQUEST FOR HEARING. (a) Except as provided by Subsection (c), a person entitled to a hearing under this chapter must deliver a written request for the hearing to the court before the 14th day after the date the vehicle was removed and placed in the vehicle storage facility, excluding Saturdays, Sundays, and legal holidays.

(b) A request for a hearing must contain:

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

(2) the location from which the vehicle was removed;

(3) the date when the vehicle was removed;

(4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal;

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

(6) the name, address, and telephone number of the towing company that removed the vehicle;

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

(8) if the vehicle was removed from a parking facility:

(A) one or more photographs that show the

location and text of any sign posted at the facility restricting parking of vehicles; or

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

(c) If notice was not given under Section 2308.454 [~~685.005~~], the 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.

(d) A person who fails to deliver a request in accordance with Subsection (a) waives the right to a hearing.

Sec. 2308.457 [~~685.008~~]. FILING FEE AUTHORIZED. The court may charge a filing fee of $20 for a hearing under this chapter.

Sec. 2308.458 [~~685.009~~]. HEARING. (a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing.

(b) The court shall notify the person who requested the hearing, [~~and~~] the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure [~~by registered or certified mail~~]. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.

(b-1) At a hearing under this section:

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

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

(c) The issues in a hearing 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 [~~643.201~~] or 2308.202 [~~643.203~~];

(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 [~~643.204~~] or 2308.204 [~~643.205~~]; or

(4) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount filed with the department under Section 2308.206 [~~643.207~~].

(d) The court shall make written findings of fact and a conclusion of law.

(e) The court may award:

(1) court costs to the prevailing party;

(2) the reasonable cost of photographs submitted under Section 2308.456(b)(8) [~~685.007(b)(8)~~] to a vehicle owner or operator who is the prevailing party; [~~and~~]

(3) an amount equal to the amount that the towing charge exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303; and

(4) reimbursement of fees paid for vehicle towing and storage [~~, Occupations Code~~].

Sec. 2308.459 [~~685.010~~]. APPEAL. An appeal from a hearing under this chapter is governed by the rules of procedure applicable to civil cases in justice court, except that no appeal bond may be required by the court.

SECTION 2.08. Subchapter J, Chapter 2308, Occupations Code, as added by this Act, is amended by adding Section 2308.460 to read as follows:

Sec. 2308.460. ENFORCEMENT OF AWARD. An award under this chapter may be enforced by any means available for the enforcement of a judgment for a debt.

SECTION 2.09. Chapter 2308, Occupations Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. ENFORCEMENT

Sec. 2308.501. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates:

(1) this chapter or a rule adopted under this chapter; or

(2) a rule or order of the executive director or commission.

(b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 2308.502. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

Sec. 2308.503. SANCTIONS. The department may impose sanctions as provided by Section 51.353.

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

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

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

(3) employs an individual who does not hold the appropriate license required by this chapter; or

(4) falsifies a certification or training.

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

SECTION 2.10. Section 643.253(d), Transportation Code, is transferred to Subchapter K, Chapter 2308, Occupations Code, renumbered as Section 2308.505, Occupations Code, and amended to read as follows:

Sec. 2308.505. CRIMINAL PENALTY; TOWING. (a) [~~(d)~~] 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 [~~643.201~~] or 2308.202 [~~643.203~~], 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 [~~643.201~~] or 2308.202 [~~643.203~~] 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 [~~643.205~~];

(4) charges or collects a fee in excess of the amount filed with the department under Section 2308.206 [~~643.207~~];

(5) violates Section 2308.205 [~~643.206~~]; or

(6) violates a rule of the department applicable to a tow truck and towing company.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $200 or more than $1,000 per violation.

ARTICLE 3. CONFORMING AMENDMENTS

SECTION 3.01. Article 18.23(e), Code of Criminal Procedure, is amended to read as follows:

(e) Subchapter J, Chapter 2308, Occupations Code [~~Chapter 685, Transportation Code~~], does not apply to a motor vehicle directed by a law enforcement agency to be towed and stored for an evidentiary or examination purpose.

SECTION 3.02. Section 101.141(a), Government Code, is amended to read as follows:

(a) A clerk of a justice court shall collect fees and costs

as follows:

(1) additional court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the commissioners court of a county with a population of at least 2.5 million (Sec. 152.005, Civil Practice and Remedies Code) . . . not to exceed $3;

(2) additional filing fees:

(A) to fund Dallas County civil court facilities (Sec. 51.705, Government Code) . . . not more than $15; and

(B) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $2;

(3) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . $1.50;

(4) fee for hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 2308.457, Occupations Code [~~685.008, Transportation Code~~]) . . . $20;

(5) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas

Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(6) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid;

(7) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding; and

(8) the cost of a special program that a court may order a child to attend after a finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed $100.

SECTION 3.03. Section 101.161, Government Code, is amended

to read as follows:

Sec. 101.161. MUNICIPAL COURT FEES AND COSTS. The clerk of a municipal court shall collect:

(1) a fee for a hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 2308.457, Occupations Code [~~685.008, Transportation Code~~]) . . . $20; and

(2) the cost of a special program that a court may order a child to attend after finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed $100.

SECTION 3.04. Section 2303.155(f), Occupations Code, is amended to read as follows:

(f) The operator of a vehicle storage facility or governmental vehicle storage facility may not charge an additional fee related to the storage of a vehicle other than a fee authorized by this section or a towing fee authorized by Chapter 2308 [~~Chapter 643, Transportation Code~~].

SECTION 3.05. Section 504.508(c), Transportation Code, is amended to read as follows:

(c) Proof of eligibility for license plates under this section must include a copy of the permit [~~registration~~] certificate issued by the Texas Department of Licensing and Regulation [~~department~~] for the tow truck.

SECTION 3.06. Section 643.002, Transportation Code, is amended to read as follows:

Sec. 643.002. EXEMPTIONS. This chapter does not apply to:

(1) a motor vehicle registered under the single state registration system established under 49 U.S.C. Section 14504(c) when operating exclusively in interstate or international commerce;

(2) a motor vehicle registered as a cotton vehicle under Section 502.277;

(3) a motor vehicle the department by rule exempts because the vehicle is subject to comparable registration and a comparable safety program administered by another governmental entity;

(4) a motor vehicle used to transport passengers operated by an entity whose primary function is not the transportation of passengers, such as a vehicle operated by a hotel, day-care center, public or private school, nursing home, or similar organization;

(5) a vehicle operating under a private carrier permit issued under Chapter 42, Alcoholic Beverage Code; [~~or~~]

(6) a vehicle operated by a governmental entity; or

(7) a tow truck, as defined by Section 2308.002, Occupations Code.

SECTION 3.07. Section 643.051(a), Transportation Code, is amended to read as follows:

(a) A motor carrier may not operate a commercial motor vehicle, as defined by Section 548.001, [~~or a tow truck~~] on a road or highway of this state unless the carrier registers with the department under this subchapter.

SECTION 3.08. Section 643.053, Transportation Code, is

amended to read as follows:

Sec. 643.053. FILING OF APPLICATION. An application under Section 643.052 must be filed with the department and accompanied by:

(1) an application fee of $100 plus a $10 fee for each vehicle requiring registration [~~other than a tow truck or a $25 fee for each tow truck the motor carrier proposes to operate~~];

(2) evidence of insurance or financial responsibility as required by Section 643.103(a); and

(3) any insurance filing fee required under Section 643.103(c).

SECTION 3.09. Sections 643.057(a) and (d), Transportation Code, are amended to read as follows:

(a) A motor carrier may not operate an additional vehicle requiring registration unless the carrier pays a registration fee of $10 for each additional vehicle [~~other than a tow truck or $25 for each tow truck~~] and shows the department evidence of insurance or financial responsibility for the vehicle in an amount at least equal to the amount set by the department under Section 643.101.

(d) The department may not collect more than $10 in equipment registration fees for a vehicle [~~other than a tow truck~~] registered under both this subchapter and Chapter 645 [~~or more than $25 if the vehicle is a tow truck~~].

SECTION 3.10. Section 643.058(c), Transportation Code, is amended to read as follows:

(c) A motor carrier may renew a registration under this subchapter by:

(1) supplementing the application with any new information required under Section 643.056;

(2) paying a $10 fee for each vehicle requiring registration [~~other than a tow truck or a fee of $25 for each tow truck the carrier operates~~]; and

(3) providing the department evidence of continuing insurance or financial responsibility in an amount at least equal to the amount set by the department under Section 643.101.

SECTION 3.11. Section 643.061(b), Transportation Code, is amended to read as follows:

(b) A motor carrier applying for registration under this section must pay:

(1) a $20 fee for each vehicle registered [~~other than a tow truck or a fee of $50 for each tow truck~~] under Subsection (a)(1);

(2) a $10 fee for each vehicle registered [~~other than a tow truck or a fee of $25 for each tow truck~~] under Subsection (a)(2); and

(3) application and insurance filing fees the department by rule adopts in an amount not to exceed $100 each.

SECTION 3.12. Section 643.253(e), Transportation Code, is amended to read as follows:

(e) An offense under Subsection (b) [~~or (d)~~] is a misdemeanor punishable by a fine of not less than $200 or more than $1,000 per violation.

SECTION 3.13. Section 1(1), Chapter 528, Acts of the 76th Legislature, Regular Session, 1999 (Article 178d-1, Vernon's Texas

Civil Statutes), is amended to read as follows:

(1) "Parking facility," "parking facility owner," and "vehicle" have the meanings assigned by Section 2308.002, Occupations Code [~~684.001, Transportation Code~~].

ARTICLE 4. MISCELLANEOUS

SECTION 4.01. Section 683.012, Transportation Code, is amended by adding Subsection (f) to read as follows:

(f) In addition to the notice required under Subsection (a), if a law enforcement agency takes an abandoned motor vehicle into custody, the agency shall notify a person that files a theft report or similar report prepared by any law enforcement agency for the vehicle of that fact. The notice must be sent by regular mail on the next business day after the agency takes the vehicle into custody. The law enforcement agency shall also provide the name and address of the person that filed the theft report or similar report to the vehicle storage facility or governmental vehicle storage facility that is storing the vehicle.

ARTICLE 5. TRANSITION AND EFFECTIVE DATE

SECTION 5.01. (a) The following provisions of the Transportation Code are repealed:

(1) Section 643.001(7);

(2) Section 643.101(d);

(3) Section 643.202;

(4) Section 684.001;

(5) Section 685.001;

(6) the heading to Subchapter E, Chapter 643;

(7) the heading to Chapter 684;

(8) the headings to Subchapters A, B, and F, Chapter 684; and

(9) the heading to Chapter 685.

(b) Subchapters E and F, Chapter 2303, Occupations Code, are repealed.

SECTION 5.02. As soon as practicable after the effective date of this Act, the presiding officer of the Texas Commission of Licensing and Regulation shall make the initial appointments to the Towing and Storage Advisory Board. The presiding officer shall appoint two members to terms expiring February 1, 2009, three members to terms expiring February 1, 2011, and three members to terms expiring February 1, 2013.

SECTION 5.03. (a) As soon as practicable after the effective date of this Act, the Texas Department of Transportation and the Texas Department of Licensing and Regulation shall develop and enter into a memorandum of understanding regarding the transfer described in this section that includes a transition plan for transferring the functions performed by the Texas Transportation Commission and the Texas Department of Transportation that relate to tow trucks, towing operations, or vehicle storage facilities to the Texas Department of Licensing and Regulation. The transition plan must include a timetable with specific steps and deadlines needed to complete the transfer, and may include provisions for the extension of expiration dates for licenses.

(b) In accordance with the transition plan developed by the Texas Department of Transportation and the Texas Department of Licensing and Regulation under Subsection (a) of this section, on

January 1, 2008:

(1) all functions and activities performed by the Texas Transportation Commission and the Texas Department of Transportation relating to tow trucks, towing operations, or vehicle storage facilities immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Transportation Commission and the Texas Department of Transportation that relates to tow trucks, towing operations, or vehicle storage facilities is a rule or form of the Texas Commission of Licensing and Regulation or the Texas Department of Licensing and Regulation, as applicable, and remains in effect until amended or replaced by that commission or department;

(3) a reference in law to or an administrative rule of the Texas Transportation Commission and the Texas Department of Transportation that relates to tow trucks, towing operations, or vehicle storage facilities means the Texas Commission of Licensing and Regulation or the Texas Department of Licensing and Regulation, as applicable;

(4) a complaint, investigation, or other proceeding before the Texas Transportation Commission or the Texas Department of Transportation that is related to tow trucks, towing operations, or vehicle storage facilities is transferred without change in status to the Texas Department of Licensing and Regulation, and the Texas Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Transportation Commission and the Texas Department of

Transportation in an action or proceeding to which the Texas Transportation Commission or the Texas Department of Transportation is a party;

(5) all full-time equivalent employee positions at the Texas Department of Transportation that primarily concern the administration of tow trucks, towing operations, or vehicle storage facilities become positions at the Texas Department of Licensing and Regulation, and when filling the positions, the Texas Department of Licensing and Regulation shall give first consideration to an applicant who, as of December 31, 2007, was a full-time employee at the Texas Department of Transportation primarily involved in administering tow trucks, towing operations, or vehicle storage facilities;

(6) all money, contracts, leases, property, and obligations of the Texas Department of Transportation related to the regulation of tow trucks, towing operations, or vehicle storage facilities are transferred to the Texas Department of Licensing and Regulation;

(7) all property in the custody of the Texas Department of Transportation related to tow trucks, towing operations, or vehicle storage facilities is transferred to the Texas Department of Licensing and Regulation; and

(8) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Transportation Commission and the Texas Department of Transportation related to tow trucks, towing operations, or vehicle storage facilities is transferred to the Texas Department of Licensing and Regulation.

(c) Before January 1, 2008, the Texas Department of Transportation may agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Department of Transportation to the Texas Department of Licensing and Regulation to implement the transfer required by this Act.

(d) In the period beginning with the effective date of this Act and ending on December 31, 2007, the Texas Transportation Commission and the Texas Department of Transportation shall continue to perform functions and activities under Chapter 2303, Occupations Code, and those portions of Chapters 643 and 684, Transportation Code, that relate to tow trucks, towing operations, or vehicle storage facilities, as if those laws were not amended by this Act, and the former law is continued in effect for that purpose.

SECTION 5.04. Not later than April 1, 2008, the Texas Commission of Licensing and Regulation shall adopt rules relating to an original application for a permit or license under Chapter 2303, Occupations Code, as amended by this Act, and Chapter 2308, Occupations Code, as added by this Act.

SECTION 5.05. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2007.

(b) Section 2308.504, Occupations Code, as added by this Act, and Subchapters C and D, Chapter 2308, Occupations Code, as added by this Act, take effect September 1, 2008.

House Bill 2094
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION	CONFERENCE
No equivalent provision.	ARTICLE 1. LICENSING AND REGULATION OF TOWING AND VEHICLE STORAGE	Same as Senate version.
No equivalent provision.	SECTION 1.01. Amends Sections 2303.002(2), (3), and (4), Occupations Code. (2) "Commission" means the Texas Commission of Licensing and Regulation. (3) "Department" means the Texas Department of Licensing and Regulation. (4) "Executive director" means the executive director of the department.	Same as Senate version.
No equivalent provision.	SECTION 1.02. Section 2303.051, Occupations Code, is amended to provide that the commission shall adopt a rule that govern the administration of this chapter.	Same as Senate version.
No equivalent provision.	SECTION 1.03. Subchapter B, Chapter 2303, Occupations Code, is amended by adding Sections 2303.055, 2303.056, 2303.057, and 2303.058 to read as follows: <u>Sec. 2303.055. EXAMINATION OF CRIMINAL CONVICTION. The department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.</u> <u>Sec. 2303.056. PERIODIC AND RISK-BASED INSPECTIONS. (a) The department may enter and inspect at any time during business hours:</u> <u>(1) the place of business of any person regulated under this chapter; or</u>	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	(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. Sec. 2303.057. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter. Sec. 2303.058. ADVISORY BOARD. The Towing and Storage Advisory Board under Chapter 2308 shall advise the commission in adopting vehicle storage rules under this chapter.	
No equivalent provision.	SECTION 1.04. The heading to Section 2303.101, Occupations Code, is amended to read as follows: Sec. 2303.101. FACILITY LICENSE REQUIRED.	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
No equivalent provision.	SECTION 1.05. Subchapter C, Chapter 2303, Occupations Code, is amended by adding Section 2303.1015 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. (b) The commission shall adopt rules governing the application for and issuance of a license under this section.	
No equivalent provision.	SECTION 1.06. Sections 2303.102(a) and (b), Occupations Code, are amended to read as follows: (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 executive director. (b) The rules adopted [~~by the commission~~] under this section must require an [~~the~~] application for a facility license [~~to be made under oath and~~] to list: (1) the name and address of each partner, if the applicant is a partnership; and (2) the name and address of the president, secretary, and treasurer of the corporation, if the applicant is a corporation [~~; and~~ [~~(3) each conviction of a felony, or of a misdemeanor punishable by confinement in jail or by a fine exceeding $200, that was obtained against the applicant or a partner or officer of the applicant in the three years preceding the date of application~~].	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
No equivalent provision.	SECTION 1.07. Section 2303.151(c), Occupations Code, is amended specify that it is a defense to an action initiated by the department for a violation of this section that the operator of the facility unsuccessfully attempted in writing <u>or electronically</u> to obtain information from the governmental entity with which the vehicle is registered.	Same as Senate version.
No equivalent provision.	SECTION 1.08. Section 2303.155(b), Occupations Code, is amended to provide that the operator of a vehicle storage facility or governmental vehicle storage facility may not charge a fee under Subsection (b) to the owner of a vehicle stored or parked at the facility as a result of recovery of the vehicle after being stolen if the vehicle owner provides the operator with a copy of the police report or similar report prepared by any law enforcement agency showing that the vehicle was reported stolen.	Same as Senate version.
No equivalent provision.	SECTION 1.09. Subchapter D, Chapter 2303, Occupations Code, is amended by adding Section 2303.160 to read as follows: <u>Sec. 2303.160. DRUG TESTING OF EMPLOYEES. (a) A license holder shall establish a drug testing policy for employees of the vehicle storage facility operated by the license holder. A license holder that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted</u>	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	by the commission. (b) The commission by rule shall adopt a model drug testing policy for use by license holders. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. The model drug testing policy must: (1) require at least one scheduled drug test each year for each employee of a vehicle storage facility who has direct contact with the public; and (2) authorize random, unannounced drug testing for employees described by Subdivision (1).	
No equivalent provision.	SECTION 1.10. Section 2303.302, Occupations Code, is amended to stipulate that a person commits an offense if the person violates the licensing requirements of this chapter or employs an individual who does not hold an appropriate license required by this chapter. Establishes that an offense under this section is a Class C misdemeanor.	Same as Senate version.
No equivalent provision.	SECTION 1.11. Subchapter G, Chapter 2303, Occupations Code, is amended by adding Sections 2303.304 and 2303.305 to read as follows: Sec. 2303.304. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates: (1) this chapter or a rule adopted under this chapter; or	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	(2) a rule or order of the executive director or commission. (b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing. Sec. 2303.305. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety. (b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.	
No equivalent provision.	SECTION 1.12. Subtitle A, Title 14, Occupations Code, is amended by adding Chapter 2308 to read as follows: CHAPTER 2308. VEHICLE TOWING SUBCHAPTER A. GENERAL PROVISIONS Sec. 2308.001. SHORT TITLE. This chapter may be cited as the Texas Towing Act. Sec. 2308.002. DEFINITIONS. In this chapter: (1) "Advisory board" means the Towing and Storage Advisory Board. (2) "Commission" means the Texas Commission of Licensing and Regulation. (3) "Consent tow" means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle. (4) "Department" means the Texas Department of Licensing and Regulation. (5) "Driver's license" has the meaning assigned by Section 521.001, Transportation Code. (6) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow. (7) "Parking facility" means public or private property used, wholly or partly, for restricted or paid vehicle parking. The term includes: (A) a restricted space on a portion of an otherwise unrestricted parking facility; and (B) a commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, home, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including: (i) a portion of the right-of-way of a public roadway that is leased by a governmental entity to the parking facility owner; and (ii) the area between the facility's property line abutting a county or municipal public roadway and the center line of the roadway's drainage way or the curb of the roadway, whichever is farther from the facility's property line. (8) "Parking facility owner" means: (A) an owner or operator of a parking facility, including	

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	a lessee, employee, or agent of an owner or operator; (B) a property owners' association having control under a dedicatory instrument, as that term is defined in Section 202.001, Property Code, over assigned or unassigned parking areas; or (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. (9) "Property owners' association" has the meaning assigned by Section 202.001, Property Code. (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. (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. (12) "Towing company" means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a public roadway in this state but does not include a political subdivision of the state. (13) "Unauthorized vehicle" means a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner. (14) "Vehicle" means a device in, on, or by which a person or property may be transported on a public roadway. The term includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer but does not include a device moved by human power or used exclusively on a stationary rail or track.	

HOUSE VERSION	SENATE VERSION	CONFERENCE
	(15) "Vehicle owner" means a person: (A) named as the purchaser or transferee in the certificate of title issued for the vehicle under Chapter 501, Transportation Code; (B) in whose name the vehicle is registered under Chapter 502, Transportation Code, or a member of the person's immediate family; (C) who holds the vehicle through a lease agreement; (D) who is an unrecorded lienholder entitled to possess the vehicle under the terms of a chattel mortgage; or (E) who is a lienholder holding an affidavit of repossession and entitled to repossess the vehicle. (16) "Vehicle storage facility" means a vehicle storage facility, as defined by Section 2303.002, that is operated by a person who holds a license issued under Chapter 2303 to operate the facility. Sec. 2308.003. STUDY OF NONCONSENT TOWING FEES. (a) The department shall study the fees charged by license and permit holders for nonconsent tows, compliance of license and permit holders with local regulations governing towing fees, and consumer complaints related to fees for nonconsent tows. Not later than January 1, 2009, the department shall report to the legislature the findings of the study, including any recommendations for state regulation of towing fees. (b) This section expires September 1, 2009. [Sections 2308.004-2308.050 reserved for expansion] SUBCHAPTER B. ADVISORY BOARD Sec. 2308.051. TOWING AND STORAGE ADVISORY BOARD. (a) The advisory board consists	

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	of the following members appointed by the presiding officer of the commission with the approval of the commission: (1) one representative of a towing company operating in a county with a population of less than one million; (2) one representative of a towing company operating in a county with a population of one million or more; (3) one owner of a vehicle storage facility located in a county with a population of less than one million; (4) one owner of a vehicle storage facility located in a county with a population of one million or more; (5) one parking facility owner; (6) one law enforcement officer from a county with a population of less than one million; (7) one law enforcement officer from a county with a population of one million or more; and (8) one representative of property and casualty insurers who write automobile insurance in this state. (b) The advisory board must include representation for each classification of towing. (c) An appointment to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee. Sec. 2308.052. TERMS; VACANCIES. (a) Advisory board members serve terms of six years, with the terms of two or three members, as appropriate, expiring on February 1 of each odd-numbered year. (b) A member may not serve more than two full consecutive terms. (c) If a vacancy occurs during a term, the presiding	

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	officer of the commission shall appoint a replacement who meets the qualifications of the vacated position to serve for the remainder of the term. Sec. 2308.053. PRESIDING OFFICER. The presiding officer of the commission shall appoint one of the advisory board members to serve as presiding officer of the advisory board for a term of one year. The presiding officer of the advisory board may vote on any matter before the advisory board. Sec. 2308.054. COMPENSATION; REIMBURSEMENT OF EXPENSES. Advisory board members may not receive compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the advisory board, subject to the General Appropriations Act. Sec. 2308.055. MEETINGS. The advisory board shall meet twice annually and may meet at other times at the call of the presiding officer of the commission or the executive director. Sec. 2308.056. GENERAL POWERS AND DUTIES. The executive director or commission, as appropriate, may take action as necessary to administer and enforce this chapter. Sec. 2308.057. RULES. (a) The commission shall adopt rules for permitting tow trucks and licensing towing operators and towing companies. (b) The commission by rule shall adopt standards of conduct for license and permit holders under this chapter. Sec. 2308.058. FEES. The commission shall establish and collect reasonable and necessary fees in amounts	

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	sufficient to cover the costs of administering this chapter. Sec. 2308.059. 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 or permit holder is in violation of this chapter or in violation of a rule or order of the commission or executive director. (b) 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 towing company or operator; (2) the inspection history; (3) any history of complaints involving the towing company or operator; and (4) any other factor determined by the commission by rule. (c) The towing company shall pay a fee for each risk-based inspection performed under this section. The commission by rule shall set the amount of the fee. (d) In conducting an inspection under this section, the department may inspect a vehicle, a facility, business records, or any other place or thing reasonably required to enforce this chapter or a rule or order adopted under this chapter. Sec. 2308.060. POWERS AND DUTIES OF ADVISORY BOARD. The advisory board shall provide	

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	advice and recommendations to the department on technical matters relevant to the administration and enforcement of this chapter, including examination content, licensing standards, and continuing education requirements. Sec. 2308.061. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter. [Sections 2308.062-2308.100 reserved for expansion] SUBCHAPTER C. TOW TRUCK PERMIT REQUIREMENTS Sec. 2308.101. PERMIT REQUIRED. A tow truck may not be used for consent towing or nonconsent towing on a public roadway in this state unless an appropriate permit has been issued for the tow truck under this subchapter. Each tow truck requires a separate permit. Sec. 2308.102. APPLICATION REQUIREMENTS. (a) An applicant for a permit under this subchapter must submit to the department: (1) a completed application on a form prescribed by the executive director; (2) evidence of insurance or financial responsibility required under this subchapter; (3) the required fees; and (4) any other information required by the executive director. (b) The department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.	

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	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(e), Transportation Code. Sec. 2308.104. REQUIREMENTS FOR PRIVATE PROPERTY TOWING PERMIT. (a) A private property towing permit is required for a tow truck used to perform a nonconsent tow authorized by a parking facility owner under this chapter. (b) To be eligible for a private property towing permit, an applicant must submit evidence that: (1) the tow truck is equipped to tow light-duty or heavy-	

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	duty vehicles according to the manufacturer's towing guidelines; (2) the applicant has at least $300,000 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 consent towing but not for incident management towing. Sec. 2308.105. REQUIREMENTS FOR CONSENT TOWING PERMIT. (a) A consent towing permit is required for a tow truck used to perform a consent tow authorized by the vehicle owner. (b) To be eligible for a consent 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; and (2) the applicant has at least $300,000 of liability insurance for the tow truck. (c) A tow truck permitted under this section may not be used for nonconsent towing, including incident management towing and private property towing. Sec. 2308.106. DEPARTMENT APPROVAL; ISSUANCE OF PERMIT. (a) The department shall issue a permit under this subchapter to an applicant who meets the requirements for a permit. The department may deny an application if the applicant has had a permit revoked under this chapter. (b) The department shall issue a certificate containing a	

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	single unique permit number for each tow truck, regardless of whether the permit holder holds more than one permit. Sec. 2308.107. PERMIT RENEWAL. (a) A permit issued under this chapter is valid for one year. The department may adopt a system under which permits expire at different times during the year. (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 address according to the records of the department. (c) A permit holder may renew a permit under this chapter by: (1) paying a fee for each tow truck; and (2) providing to the department evidence of continuing insurance or financial responsibility in an amount required by this chapter. Sec. 2308.108. CAB CARDS. (a) The department shall issue a cab card for each tow truck issued a permit. The cab card must: (1) show the permit number of the certificate issued under Section 2308.106(b); (2) show the type of permit issued; (3) show the vehicle unit number; (4) show the vehicle identification number; and (5) contain a statement that the vehicle has been issued a permit under this subchapter. (b) The department shall issue a cab card when the department issues or renews a permit under this	

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	subchapter. (c) A permit holder must keep the cab card in the cab of each permitted tow truck. (d) The department may order a permit holder to surrender a cab card if the permit is suspended or revoked under this chapter. (e) If the department determines that the cab card system described by Subsections (a) through (c) is not an efficient means of enforcing this subchapter, the executive director by rule may adopt an alternative method that is accessible by law enforcement personnel in the field and provides for the enforcement of the permit requirements of this subchapter. (f) A cab card or a permit issued under the alternative method described in Subsection (e) must be valid for the same duration as a certificate issued under Section 2308.106. Sec. 2308.109. DISPLAY OF INFORMATION ON TOW TRUCK. (a) A permit holder shall display on each permitted tow truck: (1) the permit holder's name; (2) the permit holder's telephone number; (3) the city and state where the permit holder is located; and (4) the permit number for the tow truck. (b) The information required to be displayed must be: (1) printed in letters and numbers that are at least two inches high and in a color that contrasts with the color of the background surface; and (2) permanently affixed in conspicuous places on both	

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	sides of the tow truck. Sec. 2308.110. FINANCIAL RESPONSIBILITY. (a) A permit holder shall maintain liability insurance for each tow truck according to the requirements under this subchapter. (b) Unless state law permits a tow truck to be self-insured, any insurance required for a tow truck must be obtained from an insurer authorized to do business in this state. (c) An applicant or permit holder must file with the department evidence of insurance as required by this subchapter. (d) A permit holder shall keep evidence of insurance in a form approved by the department in the cab of each permitted tow truck. [Sections 2308.111-2308.150 reserved for expansion] SUBCHAPTER D. LICENSE REQUIREMENTS 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. Sec. 2308.152. GENERAL LICENSE APPLICATION REQUIREMENTS. An applicant for a license under this subchapter must submit to the department: (1) a completed application on a form prescribed by the executive director; (2) the required fees; and (3) any other information required by commission rule. Sec. 2308.153. INCIDENT MANAGEMENT TOWING	

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	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) be a licensed Texas driver; and (2) be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by the department. Sec. 2308.154. PRIVATE PROPERTY TOWING OPERATOR'S LICENSE. (a) A private property towing operator's license is required to operate a tow truck permitted under Section 2308.104. (b) An applicant for a private property towing operator's license must: (1) be a licensed Texas driver; and (2) be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by the department. Sec. 2308.155. CONSENT TOWING OPERATOR'S LICENSE. (a) A consent towing operator's license is required to operate a tow truck permitted under Section 2308.105. (b) An applicant for a consent towing operator's license must be a licensed Texas driver. Sec. 2308.156. NONTRANSFERABILITY OF LICENSE. A license issued by the executive director is valid throughout this state and is not transferable.	

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	Sec. 2308.157. CONTINUING EDUCATION. (a) The commission by rule shall recognize, prepare, or administer continuing education programs for license holders. Except as provided by Subsection (c), each license holder must complete a continuing education program before the license holder may renew the license holder's license. (b) A person recognized by the commission to offer a continuing education program must: (1) register with the department; and (2) comply with rules adopted by the commission relating to continuing education. (c) To renew an incident management towing operator's license the first time, a license holder must complete a professional development course relating to towing that is licensed or certified by the National Safety Council or another course approved and administered by the department under this section. Sec. 2308.158. DRUG TESTING OF TOWING OPERATORS. (a) A towing company shall establish a drug testing policy for towing operators. A towing company that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted by the commission. (b) The commission by rule shall adopt a model drug testing policy for use by a towing company. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to	

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	protect the rights of employees. The model drug testing policy must: (1) require at least one scheduled drug test each year for each towing operator; and (2) authorize random, unannounced drug testing for towing operators. Sec. 2308.159. LICENSE RENEWAL. (a) A license issued under this subchapter is valid for one year. The department may adopt a system under which licenses expire at different times during the year. (b) The department shall notify the license holder at least 30 days before the date a license expires. The notice must be in writing and sent to the license holder's last known address according to the records of the department. (c) A license holder may renew a license issued under this chapter by: (1) paying a renewal fee; and (2) completing continuing education as required by Section 2308.157.	
No equivalent provision.	ARTICLE 2. CONSOLIDATION OF LAWS RELATED TO TOWING	Same as Senate version.
No equivalent provision.	SECTION 2.01. Sections 643.201 and 643.203 through 643.208, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter E, Chapter 2308, Occupations Code, renumbered as Sections 2308.201 through 2308.207, Occupations Code. Added Sec. 2308.202 provides that the governing body	Same as Senate version except Section 2308.202 provides that the governing body of a political subdivision *may* regulate the fees.

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	of a political subdivision *shall* regulate the fees that may be charged or collected in connection with a nonconsent tow originating in the territory of the political subdivision.	
No equivalent provision.	SECTION 2.02. Section 684.101, Transportation Code, is transferred to Subchapter E, Chapter 2308, Occupations Code, and renumbered as Section 2308.208, Occupations Code.	Same as Senate version.
No equivalent provision.	SECTION 2.03. Sections 684.011, 684.012, 684.0125, 684.013, 684.014, and 684.015, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter F, Chapter 2308, Transportation Code, renumbered as Sections 2308.251 through 2308.256, Occupations Code.	Same as Senate version.
No equivalent provision.	SECTION 2.04. Subchapter C, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter G, Chapter 2308, Occupations Code, and Sections 684.031 through 684.035, Transportation Code, are renumbered as Sections 2308.301 through 2308.305, Occupations Code.	Same as Senate version.
No equivalent provision.	SECTION 2.05. Subchapter D, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter H, Chapter 2308, Occupations Code, and Sections 684.051 through 684.054, Transportation Code, are renumbered	Same as Senate version.

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	as Sections 2308.351 through 2308.354, Occupations Code.	
No equivalent provision.	SECTION 2.06. Subchapter E, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter I, Chapter 2308, Occupations Code, and Sections 684.081 through 684.087, Transportation Code, are renumbered as Sections 2308.401 through 2308.407, Occupations Code.	Same as Senate version.
SECTION 1. Section 685.007(b), Transportation Code, is amended to read as follows:	SECTION 2.07. Sections 685.002 through 685.010, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter J, Chapter 2308, Occupations Code, renumbered as Sections 2308.451 through 2308.459, Occupations Code, and amended to read as follows: SUBCHAPTER J. RIGHTS OF OWNERS AND OPERATORS OF STORED VEHICLES Sec. 2308.451 [~~685.002~~]. PAYMENT OF COST OF REMOVAL AND STORAGE OF VEHICLE. (a) If in a hearing held under this chapter the court finds that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person who requested the hearing shall pay the costs of the removal and storage. (b) If in a hearing held under this chapter the court does not find that a person or law enforcement agency authorized, with probable cause, the removal and storage	Same as Senate version.

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	in a vehicle storage facility of a vehicle, the person or law enforcement agency that authorized the removal shall: (1) pay the costs of the removal and storage; or (2) reimburse the owner or operator for the cost of the removal and storage paid by the owner or operator. Sec. 2308.452 [~~685.003~~]. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO HEARING. The owner or operator of a vehicle that has been removed and placed in a vehicle storage facility without the consent of the owner or operator of the vehicle is entitled to a hearing on whether probable cause existed for the removal and placement. Sec. 2308.453 [~~685.004~~]. JURISDICTION. A hearing under this chapter shall be in the justice court having jurisdiction in the precinct in which the vehicle storage facility is located. Sec. 2308.454 [~~685.005~~]. NOTICE TO VEHICLE OWNER OR OPERATOR. (a) If before a hearing held under this chapter the owner or operator of a vehicle pays the costs of the vehicle's 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 chapter. (b) The operator of a vehicle storage facility that sends a notice under Subchapter D, Chapter 2303, [~~Occupations Code,~~] shall include with that notice a notice of the person's rights under this chapter. Sec. 2308.455 [~~685.006~~]. CONTENTS OF NOTICE.	

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	The notice under Section 2308.454 [~~685.005~~] must include: (1) a statement of: (A) the person's right to submit a request within 14 days for a court hearing to determine whether probable cause existed to remove the vehicle; (B) the information that a request for a hearing must contain; and (C) any filing fee for the hearing; (2) the name, address, and telephone number of the towing company that removed the vehicle; (3) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed; (4) the name, address, and telephone number of the person, property owner, or law enforcement agency that authorized the removal of the vehicle; and (5) the name, address, and telephone number of the justice court having jurisdiction in the precinct in which the vehicle storage facility is located. Sec. 2308.456 [~~685.007~~]. REQUEST FOR HEARING. (a) Except as provided by Subsection (c), a person entitled to a hearing under this chapter must deliver a written request for the hearing to the court before the 14th day after the date the vehicle was removed and placed in the vehicle storage facility, excluding Saturdays, Sundays, and legal holidays.	
(b) A request for a hearing must contain: (1) the name, address, and telephone number of the owner or operator of the vehicle;	(b) A request for a hearing must contain: (1) the name, address, and telephone number of the owner or operator of the vehicle;	Same as Senate version.

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(2) the location from which the vehicle was removed; (3) the date when the vehicle was removed; (4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal; (5) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed; (6) the name, address, and telephone number of the towing company that removed the vehicle; (7) a copy of any receipt or notification that the owner or operator received from the towing company or the vehicle storage facility; [~~and~~] (8) if the vehicle was removed from a parking facility: (A) one or more photographs that show the location and text of any sign posted at the facility restricting parking of vehicles; or (B) a statement that no sign restricting parking was posted at the parking facility; and (9) a statement explaining each reason why the owner or operator of the vehicle believes no probable cause existed to remove the vehicle.	(2) the location from which the vehicle was removed; (3) the date when the vehicle was removed; (4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal; (5) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed; (6) the name, address, and telephone number of the towing company that removed the vehicle; (7) a copy of any receipt or notification that the owner or operator received from the towing company or the vehicle storage facility; and (8) if the vehicle was removed from a parking facility: (A) one or more photographs that show the location and text of any sign posted at the facility restricting parking of vehicles; or (B) a statement that no sign restricting parking was posted at the parking facility.	
No equivalent provision.	(c) If notice was not given under Section 2308.454 [~~685.005~~], the 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.	Same as Senate version.
No equivalent provision.	(d) A person who fails to deliver a request in accordance with Subsection (a) waives the right to a hearing.	Same as Senate version.

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	Sec. 2308.457 [~~685.008~~]. FILING FEE AUTHORIZED. The court may charge a filing fee of $20 for a hearing under this chapter.	
SECTION 2. Sections 685.009(a), (b), and (e), Transportation Code, are amended to read as follows: (a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing. (b) The court shall notify the person who requested the hearing, [~~and~~] the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure [~~by registered or certified mail~~]. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.	SECTION 2.07. Sec. 2308.458 [~~685.009~~]. HEARING. (a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing. (b) The court shall notify the person who requested the hearing, [~~and~~] the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure [~~by registered or certified mail~~]. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing. (b-1) At a hearing under this section: (1) the burden of proof is on the person who requested the hearing; and (2) hearsay evidence is admissible if it is considered otherwise reliable by the justice of the peace. (c) The issues in a hearing 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	Same as Senate version.

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	subdivision under Section 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~]; (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 [~~643.204~~] or 2308.204 [~~643.205~~]; or (4) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount filed with the department under Section 2308.206 [~~643.207~~]. (d) The court shall make written findings of fact and a conclusion of law.	
(e) The court may award: (1) court costs to the prevailing party; (2) the reasonable cost of photographs submitted under Section 685.007(b)(8) to a vehicle owner or operator who is the prevailing party; [~~and~~] (3) an amount equal to the amount that the towing charge exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303, Occupations Code; and (4) reimbursement of fees paid for vehicle towing and storage.	(e) The court may award: (1) court costs to the prevailing party; (2) the reasonable cost of photographs submitted under Section 2308.456(b)(8) [~~685.007(b)(8)~~] to a vehicle owner or operator who is the prevailing party; [~~and~~] (3) an amount equal to the amount that the towing charge exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303; and (4) reimbursement of fees paid for vehicle towing and storage [~~, Occupations Code~~]. Sec. 2308.459 [~~685.010~~]. APPEAL. An appeal from a hearing under this chapter is governed by the rules of procedure applicable to civil cases in justice court, except that no appeal bond may be required by the court.	
SECTION 3. Chapter 685, Transportation Code, is amended by adding Section 685.011 to provide that an	SECTION 2.08. Same as the House version except specifies for the enforcement of judgment for *a debt*.	Same as Senate version.

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award under this chapter may be enforced by any means available for the enforcement of judgment for *debts*.		
No equivalent provision.	SECTION 2.09. Chapter 2308, Occupations Code, is amended by adding Subchapter K to read as follows: SUBCHAPTER K. ENFORCEMENT Sec. 2308.501. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates: (1) this chapter or a rule adopted under this chapter; or (2) a rule or order of the executive director or commission. (b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing. Sec. 2308.502. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety. (b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352. Sec. 2308.503. SANCTIONS. The department may impose sanctions as provided by Section 51.353. Sec. 2308.504. CRIMINAL PENALTY; LICENSING.	Same as Senate version.

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	(a) A person commits an offense if the person: (1) violates the permitting or licensing requirements of this chapter; (2) performs towing without a license to perform towing in this state; (3) employs an individual who does not hold the appropriate license required by this chapter; or (4) falsifies a certification or training. (b) An offense under this section is a Class C misdemeanor.	
No equivalent provision.	SECTION 2.10. Section 643.253(d), Transportation Code, is transferred to Subchapter K, Chapter 2308, Occupations Code, renumbered as Section 2308.505, Occupations Code, and amended. Among other provisions, establishes that an offense under this section is a misdemeanor punishable by a fine of not less than $200 or more than $1,000 per violation. Makes conforming changes.	Same as Senate version.
No equivalent provision.	ARTICLE 3. CONFORMING AMENDMENTS	Same as Senate version.
No equivalent provision.	SECTION 3.01-3.13.	Same as Senate version.
No equivalent provision.	No equivalent provision.	ARTICLE 4. MISCELLANEOUS
No equivalent provision.	No equivalent provision.	SECTION 4.01. Section 683.012, Transportation Code, is amended by adding Subsection (f) to read as follows: (f) In addition to the notice required under Subsection (a), if a law enforcement agency takes an abandoned

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		motor vehicle into custody, the agency shall notify a person that files a theft report or similar report prepared by any law enforcement agency for the vehicle of that fact. The notice must be sent by regular mail on the next business day after the agency takes the vehicle into custody. The law enforcement agency shall also provide the name and address of the person that filed the theft report or similar report to the vehicle storage facility or governmental vehicle storage facility that is storing the vehicle.
No equivalent provision.	ARTICLE 4. TRANSITION AND EFFECTIVE DATE	ARTICLE 5. Same as Senate version.
No equivalent provision.	SECTION 4.01-4.04.	Same as Senate version.
SECTION 4. Saving provision.	No equivalent provision.	Same as Senate version.
SECTION 5. Effective date.	SECTION 4.05. Same as House version except Section 2308.504, Occupations Code, as added by this Act, and Subchapters C and D, Chapter 2308, Occupations Code, as added by this Act, take effect September 1, 2008.	Same as Senate version.

ENROLLMENT

H.B. No. 2094

AN ACT

relating to the regulation of the towing and storage of vehicles.

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

ARTICLE 1. LICENSING AND REGULATION OF TOWING AND VEHICLE STORAGE

SECTION 1.01. Sections 2303.002(2), (3), and (4), Occupations Code, are amended to read as follows:

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

(3) "Department" means the Texas Department of Licensing and Regulation [~~Transportation~~].

(4) "Executive director [~~Director~~]" means the executive director of the department [~~or a person designated by the executive director who is not below the rank of division or special office director~~].

SECTION 1.02. Section 2303.051, Occupations Code, is amended to read as follows:

Sec. 2303.051. RULEMAKING: LICENSE REQUIREMENTS[~~; SANCTIONS~~]. The commission shall adopt rules that:

(1) establish the requirements for a person to be licensed to operate a vehicle storage facility to ensure that the facility maintains adequate standards for the care of stored vehicles; [~~and~~]

(2) relate to the administrative sanctions that may be imposed on a person licensed under this chapter;

(3) govern the administration of this chapter.

SECTION 1.03. Subchapter B, Chapter 2303, Occupations Code, is amended by adding Sections 2303.055, 2303.056, 2303.057, and 2303.058 to read as follows:

Sec. 2303.055. EXAMINATION OF CRIMINAL CONVICTION. The department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.

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.

Sec. 2303.057. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter.

Sec. 2303.058. ADVISORY BOARD. The Towing and Storage Advisory Board under Chapter 2308 shall advise the commission in adopting vehicle storage rules under this chapter.

SECTION 1.04. The heading to Section 2303.101, Occupations Code, is amended to read as follows:

Sec. 2303.101. FACILITY LICENSE REQUIRED.

SECTION 1.05. Subchapter C, Chapter 2303, Occupations Code, is amended by adding Section 2303.1015 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.

(b) The commission shall adopt rules governing the application for and issuance of a license under this section.

SECTION 1.06. Sections 2303.102(a) and (b), Occupations Code, are amended to read as follows:

(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 executive director.

(b) The rules adopted [~~by the commission~~] under this section must require an [~~the~~] application for a facility license [~~to be made under oath and~~] to list:

(1) the name and address of each partner, if the applicant is a partnership; and

(2) the name and address of the president, secretary, and treasurer of the corporation, if the applicant is a corporation [~~; and~~

[~~(3) each conviction of a felony, or of a misdemeanor punishable by confinement in jail or by a fine exceeding $200, that was obtained against the applicant or a partner or officer of the applicant in the three years preceding the date of application~~].

SECTION 1.07. Section 2303.151(c), Occupations Code, is amended to read as follows:

(c) It is a defense to an action initiated by the department for a violation of this section that the operator of the facility unsuccessfully attempted in writing or electronically to obtain information from the governmental entity with which the vehicle is registered.

SECTION 1.08. Section 2303.155(b), Occupations Code, is amended to read as follows:

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

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

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

(A) is taken by or at the direction of the owner 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) $35 for each day or part of a day the vehicle is stored at the facility if the vehicle is longer than 25 feet; [~~and~~]

(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.

SECTION 1.09. Subchapter D, Chapter 2303, Occupations Code, is amended by adding Section 2303.160 to read as follows:

Sec. 2303.160. DRUG TESTING OF EMPLOYEES. (a) A license holder shall establish a drug testing policy for employees of the vehicle storage facility operated by the license holder. A license holder that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted by the commission.

(b) The commission by rule shall adopt a model drug testing policy for use by license holders. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. The model drug testing policy must:

(1) require at least one scheduled drug test each year for each employee of a vehicle storage facility who has direct contact with the public; and

(2) authorize random, unannounced drug testing for employees described by Subdivision (1).

SECTION 1.10. Section 2303.302, Occupations Code, is amended to read as follows:

Sec. 2303.302. CRIMINAL PENALTIES. (a) A person commits an offense if the person:

(1) violates the licensing requirements of [~~operates a vehicle storage facility for which a license has not been issued under~~] this chapter; or

(2) employs an individual who does not hold an appropriate license required by [~~violates a rule adopted by the commission under~~] this chapter.

(b) An offense under this section is a Class C misdemeanor [~~punishable by a fine of not less than $200 and not more than $500~~].

[~~(c) A person commits a separate offense for each day the person violates this section.~~]

SECTION 1.11. Subchapter G, Chapter 2303, Occupations Code, is amended by adding Sections 2303.304 and 2303.305 to read as follows:

Sec. 2303.304. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates:

(1) this chapter or a rule adopted under this chapter; or

(2) a rule or order of the executive director or commission.

(b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 2303.305. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

SECTION 1.12. Subtitle A, Title 14, Occupations Code, is amended by adding Chapter 2308 to read as follows:

CHAPTER 2308. VEHICLE TOWING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2308.001. SHORT TITLE. This chapter may be cited as the Texas Towing Act.

Sec. 2308.002. DEFINITIONS. In this chapter:

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

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

(3) "Consent tow" means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.

(4) "Department" means the Texas Department of Licensing and Regulation.

(5) "Driver's license" has the meaning assigned by Section 521.001, Transportation Code.

(6) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow.

(7) "Parking facility" means public or private property used, wholly or partly, for restricted or paid vehicle parking. The term includes:

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

(B) a commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, home, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including:

(i) a portion of the right-of-way of a

public roadway that is leased by a governmental entity to the parking facility owner; and

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

(8) "Parking facility owner" means:

(A) an owner or operator of a parking facility, including a lessee, employee, or agent of an owner or operator;

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

(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.

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

(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.

(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.

(12) "Towing company" means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a

public roadway in this state but does not include a political subdivision of the state.

(13) "Unauthorized vehicle" means a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner.

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

(15) "Vehicle owner" means a person:

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

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

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

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

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

(16) "Vehicle storage facility" means a vehicle storage facility, as defined by Section 2303.002, that is operated by a person who holds a license issued under Chapter 2303 to operate

the facility.

Sec. 2308.003. STUDY OF NONCONSENT TOWING FEES. (a) The department shall study the fees charged by license and permit holders for nonconsent tows, compliance of license and permit holders with local regulations governing towing fees, and consumer complaints related to fees for nonconsent tows. Not later than January 1, 2009, the department shall report to the legislature the findings of the study, including any recommendations for state regulation of towing fees.

(b) This section expires September 1, 2009.

[Sections 2308.004-2308.050 reserved for expansion]

SUBCHAPTER B. ADVISORY BOARD

Sec. 2308.051. TOWING AND STORAGE ADVISORY BOARD. (a) The advisory board consists of the following members appointed by the presiding officer of the commission with the approval of the commission:

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

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

(3) one owner of a vehicle storage facility located in a county with a population of less than one million;

(4) one owner of a vehicle storage facility located in a county with a population of one million or more;

(5) one parking facility owner;

(6) one law enforcement officer from a county with a population of less than one million;

(7) one law enforcement officer from a county with a population of one million or more; and

(8) one representative of property and casualty insurers who write automobile insurance in this state.

(b) The advisory board must include representation for each classification of towing.

(c) An appointment to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 2308.052. TERMS; VACANCIES. (a) Advisory board members serve terms of six years, with the terms of two or three members, as appropriate, expiring on February 1 of each odd-numbered year.

(b) A member may not serve more than two full consecutive terms.

(c) If a vacancy occurs during a term, the presiding officer of the commission shall appoint a replacement who meets the qualifications of the vacated position to serve for the remainder of the term.

Sec. 2308.053. PRESIDING OFFICER. The presiding officer of the commission shall appoint one of the advisory board members to serve as presiding officer of the advisory board for a term of one year. The presiding officer of the advisory board may vote on any matter before the advisory board.

Sec. 2308.054. COMPENSATION; REIMBURSEMENT OF EXPENSES. Advisory board members may not receive compensation but are entitled to reimbursement for actual and necessary expenses

incurred in performing the functions of the advisory board, subject to the General Appropriations Act.

Sec. 2308.055. MEETINGS. The advisory board shall meet twice annually and may meet at other times at the call of the presiding officer of the commission or the executive director.

Sec. 2308.056. GENERAL POWERS AND DUTIES. The executive director or commission, as appropriate, may take action as necessary to administer and enforce this chapter.

Sec. 2308.057. RULES. (a) The commission shall adopt rules for permitting tow trucks and licensing towing operators and towing companies.

(b) The commission by rule shall adopt standards of conduct for license and permit holders under this chapter.

Sec. 2308.058. FEES. The commission shall establish and collect reasonable and necessary fees in amounts sufficient to cover the costs of administering this chapter.

Sec. 2308.059. 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 or permit holder is in violation of this chapter or in violation of a rule or order of the commission or executive director.

(b) 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 towing company or operator;

(2) the inspection history;

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

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

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

(d) In conducting an inspection under this section, the department may inspect a vehicle, a facility, business records, or any other place or thing reasonably required to enforce this chapter or a rule or order adopted under this chapter.

Sec. 2308.060. POWERS AND DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration and enforcement of this chapter, including examination content, licensing standards, and continuing education requirements.

Sec. 2308.061. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter.

[Sections 2308.062-2308.100 reserved for expansion]

SUBCHAPTER C. TOW TRUCK PERMIT REQUIREMENTS

Sec. 2308.101. PERMIT REQUIRED. A tow truck may not be used for consent towing or nonconsent towing on a public roadway in this state unless an appropriate permit has been issued for the tow truck

under this subchapter. Each tow truck requires a separate permit.

Sec. 2308.102. APPLICATION REQUIREMENTS. (a) An applicant for a permit under this subchapter must submit to the department:

(1) a completed application on a form prescribed by the executive director;

(2) evidence of insurance or financial responsibility required under this subchapter;

(3) the required fees; and

(4) any other information required by the executive director.

(b) The department may conduct an examination of any criminal conviction of an applicant, including by obtaining any criminal history record information permitted by law.

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(e), Transportation Code.

Sec. 2308.104. REQUIREMENTS FOR PRIVATE PROPERTY TOWING PERMIT. (a) A private property towing permit is required for a tow truck used to perform a nonconsent tow authorized by a parking facility owner under this chapter.

(b) To be eligible for a private property 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 $300,000 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 consent towing but not for incident management towing.

Sec. 2308.105. REQUIREMENTS FOR CONSENT TOWING PERMIT. (a) A consent towing permit is required for a tow truck used to perform a consent tow authorized by the vehicle owner.

(b) To be eligible for a consent 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; and

(2) the applicant has at least $300,000 of liability insurance for the tow truck.

(c) A tow truck permitted under this section may not be used for nonconsent towing, including incident management towing and private property towing.

Sec. 2308.106. DEPARTMENT APPROVAL; ISSUANCE OF PERMIT. (a) The department shall issue a permit under this subchapter to an applicant who meets the requirements for a permit. The department may deny an application if the applicant has had a permit revoked under this chapter.

(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.

Sec. 2308.107. PERMIT RENEWAL. (a) A permit issued under this chapter is valid for one year. The department may adopt a system under which permits expire at different times during the year.

(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 address according to the records of the department.

(c) A permit holder may renew a permit under this chapter by:

(1) paying a fee for each tow truck; and

(2) providing to the department evidence of continuing

insurance or financial responsibility in an amount required by this chapter.

Sec. 2308.108. CAB CARDS. (a) The department shall issue a cab card for each tow truck issued a permit. The cab card must:

(1) show the permit number of the certificate issued under Section 2308.106(b);

(2) show the type of permit issued;

(3) show the vehicle unit number;

(4) show the vehicle identification number; and

(5) contain a statement that the vehicle has been issued a permit under this subchapter.

(b) The department shall issue a cab card when the department issues or renews a permit under this subchapter.

(c) A permit holder must keep the cab card in the cab of each permitted tow truck.

(d) The department may order a permit holder to surrender a cab card if the permit is suspended or revoked under this chapter.

(e) If the department determines that the cab card system described by Subsections (a) through (c) is not an efficient means of enforcing this subchapter, the executive director by rule may adopt an alternative method that is accessible by law enforcement personnel in the field and provides for the enforcement of the permit requirements of this subchapter.

(f) A cab card or a permit issued under the alternative method described in Subsection (e) must be valid for the same duration as a certificate issued under Section 2308.106.

Sec. 2308.109. DISPLAY OF INFORMATION ON TOW TRUCK. (a) A

permit holder shall display on each permitted tow truck:

(1) the permit holder's name;

(2) the permit holder's telephone number;

(3) the city and state where the permit holder is located; and

(4) the permit number for the tow truck.

(b) The information required to be displayed must be:

(1) printed in letters and numbers that are at least two inches high and in a color that contrasts with the color of the background surface; and

(2) permanently affixed in conspicuous places on both sides of the tow truck.

Sec. 2308.110. FINANCIAL RESPONSIBILITY. (a) A permit holder shall maintain liability insurance for each tow truck according to the requirements under this subchapter.

(b) Unless state law permits a tow truck to be self-insured, any insurance required for a tow truck must be obtained from an insurer authorized to do business in this state.

(c) An applicant or permit holder must file with the department evidence of insurance as required by this subchapter.

(d) A permit holder shall keep evidence of insurance in a form approved by the department in the cab of each permitted tow truck.

[Sections 2308.111-2308.150 reserved for expansion]

SUBCHAPTER D. LICENSE REQUIREMENTS

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.

Sec. 2308.152. GENERAL LICENSE APPLICATION REQUIREMENTS. An applicant for a license under this subchapter must submit to the department:

(1) a completed application on a form prescribed by the executive director;

(2) the required fees; and

(3) any other information required by commission rule.

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) be a licensed Texas driver; and

(2) be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by the department.

Sec. 2308.154. PRIVATE PROPERTY TOWING OPERATOR'S LICENSE. (a) A private property towing operator's license is required to operate a tow truck permitted under Section 2308.104.

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

(1) be a licensed Texas driver; and

(2) be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by the department.

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

(b) An applicant for a consent towing operator's license must be a licensed Texas driver.

Sec. 2308.156. NONTRANSFERABILITY OF LICENSE. A license issued by the executive director is valid throughout this state and is not transferable.

Sec. 2308.157. CONTINUING EDUCATION. (a) The commission by rule shall recognize, prepare, or administer continuing education programs for license holders. Except as provided by Subsection (c), each license holder must complete a continuing education program before the license holder may renew the license holder's license.

(b) A person recognized by the commission to offer a continuing education program must:

(1) register with the department; and

(2) comply with rules adopted by the commission relating to continuing education.

(c) To renew an incident management towing operator's license the first time, a license holder must complete a professional development course relating to towing that is licensed or certified by the National Safety Council or another course approved and administered by the department under this section.

Sec. 2308.158. DRUG TESTING OF TOWING OPERATORS. (a) A towing company shall establish a drug testing policy for towing

operators. A towing company that establishes a drug testing policy under this subsection may adopt the model drug testing policy adopted by the commission or may use another drug testing policy that the department determines is at least as stringent as the policy adopted by the commission.

(b) The commission by rule shall adopt a model drug testing policy for use by a towing company. The model drug testing policy must be designed to ensure the safety of the public through appropriate drug testing and to protect the rights of employees. The model drug testing policy must:

(1) require at least one scheduled drug test each year for each towing operator; and

(2) authorize random, unannounced drug testing for towing operators.

Sec. 2308.159. LICENSE RENEWAL. (a) A license issued under this subchapter is valid for one year. The department may adopt a system under which licenses expire at different times during the year.

(b) The department shall notify the license holder at least 30 days before the date a license expires. The notice must be in writing and sent to the license holder's last known address according to the records of the department.

(c) A license holder may renew a license issued under this chapter by:

(1) paying a renewal fee; and

(2) completing continuing education as required by Section 2308.157.

ARTICLE 2. CONSOLIDATION OF LAWS RELATED TO TOWING

SECTION 2.01. Sections 643.201 and 643.203 through 643.208, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter E, Chapter 2308, Occupations Code, renumbered as Sections 2308.201 through 2308.207, Occupations Code, and amended to read as follows:

SUBCHAPTER E. LOCAL REGULATION OF TOWING

Sec. 2308.201 [~~643.201~~]. TOW TRUCK REGULATION BY POLITICAL SUBDIVISIONS. (a) A [~~In addition to the registration requirements of Subchapter B, a~~] political subdivision of this state may regulate the operation of a tow truck to the extent allowed by federal law, except that a political subdivision may not issue a more restrictive regulation for the use of lighting equipment on a tow truck than is imposed by Title 7, Transportation Code [~~this title~~].

(b) A political subdivision may not require the registration of a tow truck that performs consent tows in the political subdivision unless the owner of the tow truck has a place of business in the territory of the political subdivision.

(c) A political subdivision may require the registration of a tow truck that performs a nonconsent tow in the political subdivision, regardless of whether the owner of the tow truck has a place of business in the territory of the political subdivision.

(d) A political subdivision may not require a person who holds a driver's license or commercial driver's license to obtain a license or permit for operating a tow truck unless the person performs nonconsent tows in the territory of the political

subdivision. A fee charged for a license or permit may not exceed $15.

[~~(c) In this section:~~

[~~(1) "Commercial driver's license" has the meaning assigned by Section 522.003.~~

[~~(2) "Consent tow" means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.~~

[~~(3) "Driver's license" has the meaning assigned by Section 521.001.~~

[~~(4) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow.~~]

Sec. 2308.202 [~~643.203~~]. REGULATION BY POLITICAL SUBDIVISIONS OF FEES FOR NONCONSENT TOWS. The governing body of a political subdivision may regulate the fees that may be charged or collected in connection with a nonconsent tow originating in the territory of the political subdivision.

Sec. 2308.203 [~~643.204~~]. TOWING FEE STUDIES. (a) The governing body of a political subdivision that regulates nonconsent tow fees shall establish procedures by which a towing company may request that a towing fee study be performed.

(b) The governing body of the political subdivision shall establish or amend the allowable fees for nonconsent tows at amounts that represent the fair value of the services of a towing

company and are reasonably related to any financial or accounting information provided to the governing body.

Sec. 2308.204 [~~643.205~~]. FEES FOR NONCONSENT TOWS IN OTHER AREAS. (a) In an area in which no political subdivision regulates the fees that may be charged or collected for a nonconsent tow from private property, a towing company may charge and collect a fee for the tow of a motor vehicle from private property in an amount not to exceed an amount equal to 150 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.

(b) A towing company may charge and collect a fee for the tow of a vehicle, with a gross vehicle weight rating in excess of 26,000 pounds, from private property in an amount not to exceed an amount equal to 125 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.

Sec. 2308.205 [~~643.206~~]. STORAGE OF TOWED VEHICLES. (a) A towing company that makes a nonconsent tow shall tow the vehicle to a vehicle storage facility that is operated by a person who holds a license to operate the facility under Chapter 2303, [~~Occupations Code,~~] unless the towing company agrees to take the vehicle to a location designated by the vehicle's owner.

(b) A storage or notification fee imposed in connection with a motor vehicle towed to a vehicle storage facility is governed by Chapter 2303[~~, Occupations Code~~].

(c) Except as provided by this chapter, Article 18.23, Code of Criminal Procedure, or Chapter 2303[~~, Occupations Code~~], a fee may not be charged or collected without the prior written consent of the vehicle owner or operator.

Sec. 2308.206 [~~643.207~~]. REQUIRED FILING. (a) Before January 31 of each year, a towing company shall file with the department a schedule showing each towing fee that the towing company charges or collects in connection with a nonconsent tow.

(b) If a political subdivision begins regulating nonconsent tow fees, the fees shall be reported to the department by the towing company before the 30th day after the regulation goes into effect.

(c) Any changes in nonconsent tow fees regulated by a political subdivision shall be reported to the department by the towing company before the 30th day after the effective date of the change.

(d) The department shall make towing fee schedules available on the department's Internet website. The department shall make no determination as to the reasonableness of a towing fee schedule.

(e) A license or permit holder may not charge a fee for a nonconsent tow that is greater than the fee listed in the schedule most recently submitted to the department under this section.

Sec. 2308.207 [~~643.208~~]. REQUIRED POSTING. (a) All [~~towing and~~] storage fees shall be posted at the licensed vehicle storage facility to which the motor vehicle has been delivered and shall be posted in view of the person who claims the vehicle.

(b) A vehicle storage facility accepting a nonconsent towed

vehicle shall post a sign in one inch letters stating "Nonconsent tow fees schedules available on request." The vehicle storage facility shall provide a copy of a nonconsent towing fees schedule on request.

SECTION 2.02. Section 684.101, Transportation Code, is transferred to Subchapter E, Chapter 2308, Occupations Code, and renumbered as Section 2308.208, Occupations Code, to read as follows:

Sec. 2308.208 [~~684.101~~]. MUNICIPAL ORDINANCE REGULATING UNAUTHORIZED VEHICLES. A municipality may adopt an ordinance that is identical to this chapter or that imposes additional requirements that exceed the minimum standards of this chapter but may not adopt an ordinance conflicting with this chapter.

SECTION 2.03. Sections 684.011, 684.012, 684.0125, 684.013, 684.014, and 684.015, Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter F, Chapter 2308, Transportation Code, renumbered as Sections 2308.251 through 2308.256, Occupations Code, and amended to read as follows:

SUBCHAPTER F. UNAUTHORIZED VEHICLES

Sec. 2308.251 [~~684.011~~]. PROHIBITION AGAINST UNATTENDED VEHICLES IN CERTAIN AREAS. (a) The owner or operator of a vehicle may not 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;

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

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

(4) does not display the special license plates issued under Section 504.201, Transportation Code, or the disabled parking placard issued under Chapter 681, Transportation Code, for a vehicle transporting a disabled person and is in a parking space that is designated for the exclusive use of a vehicle transporting a disabled person.

(b) Subsection (a) does not apply to an emergency vehicle that is owned by, or the operation of which is authorized by, a governmental entity.

(c) If a government regulation governing the marking of a fire lane applies to a parking facility, a fire lane in the facility must be marked as provided by the regulation. If a government regulation on the marking of a fire lane does not apply to the parking facility, all curbs of fire lanes must be painted red and be conspicuously and legibly marked with the warning "FIRE LANE--TOW AWAY ZONE" in white letters at least three inches tall, at intervals not exceeding 50 feet.

Sec. 2308.252 [~~684.012~~]. REMOVAL AND STORAGE OF UNAUTHORIZED VEHICLE. (a) A parking facility owner may, without the consent of the owner or operator of an unauthorized vehicle, cause the vehicle and any property on or in the vehicle to be removed and stored at a vehicle storage facility at the vehicle owner's or operator's expense if:

(1) signs that comply with Subchapter G [~~C~~] prohibiting unauthorized vehicles are located on the parking

facility at the time of towing and for the preceding 24 hours and remain installed at the time of towing;

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

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

(4) the vehicle is:

(A) left in violation of Section 2308.251 [~~684.011~~] or 2308.253 [~~684.0125~~]; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility [~~and the removal is approved by a peace officer~~].

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

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

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

(B) a description of all other unauthorized areas in the parking facility;

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

(D) a telephone number that is answered 24 hours

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

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

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

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

(2) describe all other unauthorized areas in the parking facility;

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

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

(d) The mailing of a notice under Subsection (b)(2) is not required if after the notice is attached under Subsection (b)(1) the owner or operator of the vehicle leaves the vehicle in another location where parking is unauthorized for the vehicle according to the notice.

Sec. 2308.253 [~~684.0125~~]. UNATTENDED VEHICLES ON PARKING FACILITY OF APARTMENT COMPLEX; REMOVAL AND STORAGE OF VEHICLES.

(a) This section applies only to a parking facility serving or adjacent to an apartment complex consisting of one or more residential apartment units and any adjacent real property serving the apartment complex.

(b) The owner or operator of a vehicle may not leave unattended on a parking facility a vehicle that:

(1) obstructs a gate that is designed or intended for the use of pedestrians or vehicles;

(2) obstructs pedestrian or vehicular access to an area that is used for the placement of a garbage or refuse receptacle used in common by residents of the apartment complex;

(3) is in or obstructs a restricted parking area or parking space designated under Subchapter G [~~C~~], including a space designated for the use of employees or maintenance personnel of the parking facility or apartment complex;

(4) is in a tow away zone, other than a fire lane covered by Section 2308.251(c) [~~684.011(c)~~], that is brightly painted and is conspicuously and legibly marked with the warning "TOW AWAY ZONE" in contrasting letters at least three inches tall;

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

(6) is leaking a fluid that presents a hazard or threat to persons or property.

(c) A parking facility owner may not have an emergency

vehicle described by Section 2308.251(b) [~~684.011(b)~~] removed from the parking facility.

(d) Except as provided by a contract described by Subsection (e), a parking facility owner may not have a vehicle removed from the parking facility merely because the vehicle does not display:

(1) 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; or

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

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

(1) delivered in person to the owner or operator of the vehicle; or

(2) sent by certified mail, return receipt requested, to that owner or operator.

(f) This section may not be construed:

(1) to authorize the owner or operator of a vehicle to leave an unattended vehicle on property that is not designed or

intended for the parking of vehicles; or

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

(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.

Sec. 2308.254 [~~684.013~~]. LIMITATION ON PARKING FACILITY OWNER'S AUTHORITY TO REMOVE UNAUTHORIZED VEHICLE. A parking facility owner may not have an unauthorized vehicle removed from the facility except:

(1) as provided by this chapter or a municipal ordinance that complies with Section 2308.208 [~~684.101~~]; or

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

Sec. 2308.255 [~~684.014~~]. TOWING COMPANY'S AUTHORITY TO REMOVE AND STORE UNAUTHORIZED VEHICLE. (a) A towing company that is insured as provided by Subsection (c) may, without the consent of an owner or operator of an unauthorized vehicle, remove and store the vehicle at a vehicle storage facility at the expense of the owner or operator of the vehicle if:

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

(A) the parking facility owner has installed the signs required by Section 2308.252(a)(1) [~~684.012(a)(1)~~]; or

(B) the owner or operator received notice under Section 2308.252(a)(2) [~~684.012(a)(2)~~] or the parking facility

owner gave notice complying with Section 2308.252(a)(3) [~~684.012(a)(3)~~]; or

(2) the vehicle is:

(A) left in violation of Section 2308.251 [~~684.011~~]; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility and the removal is approved by a peace officer.

(b) A towing company may not remove an unauthorized vehicle except under:

(1) this chapter;

(2) a municipal ordinance that complies with Section 2308.208 [~~684.101~~]; or

(3) the direction of a peace officer or the owner or operator of the vehicle.

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

(d) A towing company may remove and store a vehicle under Subsection (a) only if the parking facility owner:

(1) requests that the towing company remove and store the specific vehicle; or

(2) has a standing written agreement with the towing company to enforce parking restrictions in the parking facility from which the vehicle will be removed.

Sec. 2308.256 [~~684.015~~]. VEHICLE STORAGE FACILITY'S DUTY TO REPORT AFTER ACCEPTING UNAUTHORIZED VEHICLE. (a) A vehicle

storage facility accepting a vehicle that is towed under this chapter shall within two hours after receiving the vehicle report to the police department of the municipality in which the parking facility is located, or, if the parking facility is not located in a municipality having a police department, to the sheriff of the county in which the parking facility is located:

(1) a general description of the vehicle;

(2) the state and number of the vehicle's license plate, if any;

(3) the vehicle identification number of the vehicle, if it can be ascertained;

(4) the location from which the vehicle was towed; and

(5) the name and location of the vehicle storage facility where the vehicle is being stored.

(b) The report required by this section must be made by telephone or delivered personally or by facsimile.

SECTION 2.04. Subchapter C, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter G, Chapter 2308, Occupations Code, and Sections 684.031 through 684.035, Transportation Code, are renumbered as Sections 2308.301 through 2308.305, Occupations Code, and amended to read as follows:

SUBCHAPTER G [~~C~~]. SIGNS PROHIBITING UNAUTHORIZED VEHICLES AND DESIGNATING RESTRICTED AREAS

Sec. 2308.301 [~~684.031~~]. GENERAL REQUIREMENTS FOR SIGN PROHIBITING UNAUTHORIZED VEHICLES. (a) Except as provided by Subsection (a)(2)(B) and Section 2308.304 [~~684.034~~] or 2308.305

[~~684.035~~] an unauthorized vehicle may not be towed under Section 2308.252(a)(1) [~~684.012(a)(1)~~] unless a sign prohibiting unauthorized vehicles on a parking facility is:

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

(2) located:

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

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

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

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

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

(4) installed on the parking facility; and

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

(b) Except as provided by Section 2308.305 [~~684.035~~], an unauthorized vehicle may be towed under Section 2308.252(a)(1) [~~684.012(a)(1)~~] 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 "Unauthorized Vehicles Will Be Towed at Owner's or Operator's Expense";

(6) contains a statement of the days and hours of towing 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 the vehicle.

Sec. 2308.302 [~~684.032~~]. COLOR, LAYOUT, AND LETTERING HEIGHT REQUIREMENTS. (a) Except as provided by Section 2308.305 [~~684.035~~], each sign required by this chapter must comply with the color, layout, and lettering height requirements of this section.

(b) A bright red international towing symbol, which is a solid silhouette of a tow truck towing a vehicle on a generally rectangular white background, at least four inches in height, must be on the uppermost portion of a sign or on a separate sign placed immediately above the sign.

(c) The portion of the sign immediately below the international towing symbol must contain the words "Towing Enforced" or the information provided by Section 2308.301(b)(4) [~~684.031(b)(4)~~] in lettering at least two inches in height. The lettering on this portion of the sign must consist of white letters on a bright red background.

(d) Except as provided by Subsection (e), the next lower portion of the sign must contain the remaining information required by Section 2308.301(b) [~~684.031(b)~~] displayed in bright red letters at least one inch in height on a white background.

(e) The bottommost portion of the sign must contain the telephone number required by Section 2308.301(b) [~~684.031(b)~~], in lettering at least one inch in height and may, if the facility owner chooses or if an applicable municipal ordinance requires, include the name and address of the storage facility to which an unauthorized vehicle will be removed. The lettering on this portion of the sign must consist of white letters on a bright red background.

Sec. 2308.303 [~~684.033~~]. TELEPHONE NUMBER FOR LOCATING TOWED VEHICLE REQUIRED. If a parking facility owner posts a sign described by Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~], the owner of a vehicle that is towed from the facility under this chapter must be able to locate the vehicle by calling the telephone number on the sign.

Sec. 2308.304 [~~684.034~~]. DESIGNATION OF RESTRICTED PARKING SPACES ON OTHERWISE UNRESTRICTED PARKING FACILITY. A parking facility owner may designate one or more spaces as restricted parking spaces on a portion of an otherwise unrestricted parking facility. Instead of installing a sign at each entrance to the parking facility as provided by Section 2308.301(a)(2) [~~684.031(a)(2)~~], an owner may place a sign that prohibits unauthorized vehicles from parking in designated spaces and that otherwise complies with Sections 2308.301 [~~684.031~~] and 2308.302

[~~684.032~~]:

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

(2) at the end of a restricted parking space so that the sign, the top of which must not be higher than seven feet above the ground, is in front of a vehicle that is parked in the space and the rear of which is at the entrance of the space.

Sec. 2308.305 [~~684.035~~]. INDIVIDUAL PARKING RESTRICTIONS IN RESTRICTED AREA. (a) A parking facility owner who complies with Sections 2308.301 [~~684.031~~] and 2308.302 [~~684.032~~] may impose further specific parking restrictions in an area to which the signs apply for individual spaces by installing or painting a weather-resistant sign or notice on a curb, pole, post, permanent wall, or permanent barrier so that the sign is in front of a vehicle that is parked in the space and the rear of which is at the entrance of the space.

(b) The top of the sign or notice may not be higher than seven feet above the ground.

(c) The sign or notice must include an indication that the space is reserved for a particular unit number, person, or type of person.

(d) The letters on the sign or notice must be at least two inches in height and must contrast to the color of the curb, wall, or barrier so they can be read during the day and at night. The letters are not required to be illuminated or made of reflective material.

SECTION 2.05. Subchapter D, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter H, Chapter 2308, Occupations Code, and Sections 684.051 through 684.054, Transportation Code, are renumbered as Sections 2308.351 through 2308.354, Occupations Code, and amended to read as follows:

SUBCHAPTER H [~~D~~]. REGULATION OF PARKING ON CERTAIN PUBLIC ROADWAY AREAS

Sec. 2308.351 [~~684.051~~]. REMOVAL OF UNAUTHORIZED VEHICLE FROM LEASED RIGHT-OF-WAY. Unless prohibited by the lease, a parking facility owner or towing company may remove an unauthorized vehicle parked in a leased area described by Section 2308.002(7)(B)(i) [~~684.001(1)(B)(i)~~] if the owner or towing company gives notice under Section 2308.252(a)(1), (2), or (3) [~~684.012(a)(1), (2), or (3)~~] and otherwise complies with this chapter.

Sec. 2308.352 [~~684.052~~]. REMOVAL OF UNAUTHORIZED VEHICLE FROM AREA BETWEEN PARKING FACILITY AND PUBLIC ROADWAY. Unless prohibited by a municipal ordinance, a parking facility owner or towing company may remove an unauthorized vehicle any part of which is in an area described by Section 2308.002(7)(B)(ii) [~~684.001(1)(B)(ii)~~] if notice provided by Section 2308.252(a)(2) or (3) [~~684.012(a)(2) or (3)~~] is given and the owner or towing company has otherwise complied with this chapter.

Sec. 2308.353 [~~684.053~~]. REMOVAL UNDER GOVERNMENTAL ENTITY'S AUTHORITY OF UNAUTHORIZED VEHICLE PARKED IN RIGHT-OF-WAY. (a) A governmental entity that has jurisdiction over a public

roadway and that has posted one or more signs in the right-of-way stating that parking is prohibited in the right-of-way may:

(1) remove or contract with a towing company to remove an unauthorized vehicle parked in the right-of-way of the public roadway; or

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

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

(B) remove vehicles from the right-of-way of the public roadway under this chapter.

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

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

(2) be placed facing the public roadway:

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

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

(3) in all other respects comply with Subchapter G [~~C~~].

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

Sec. 2308.354 [~~684.054~~]. AUTHORITY FOR REMOVAL OF VEHICLE FROM PUBLIC ROADWAY. (a) Under an ordinance of a municipality regulating the parking of vehicles in the municipality, to aid in the enforcement of the ordinance, an employee designated by the municipality may be authorized to:

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

(2) remove an immobilized vehicle from a public roadway in the municipality.

(b) A parking facility owner or towing company may not remove a vehicle from a public roadway except under:

(1) this chapter or a municipal ordinance that complies with Section 2308.208 [~~684.101~~]; or

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

SECTION 2.06. Subchapter E, Chapter 684, Transportation Code, is transferred to Chapter 2308, Occupations Code, and redesignated as Subchapter I, Chapter 2308, Occupations Code, and Sections 684.081 through 684.087, Transportation Code, are renumbered as Sections 2308.401 through 2308.407, Occupations Code, to read as follows:

SUBCHAPTER I [~~E~~]. REGULATION OF TOWING COMPANIES AND PARKING FACILITY OWNERS

Sec. 2308.401 [~~684.081~~]. PARKING FACILITY OWNER PROHIBITED FROM RECEIVING FINANCIAL GAIN FROM TOWING COMPANY. (a) A parking facility owner may not directly or indirectly accept anything of value from a towing company in connection with the removal of a

vehicle from a parking facility.

(b) A parking facility owner may not have a direct or indirect monetary interest in a towing company that for compensation removes unauthorized vehicles from a parking facility in which the parking facility owner has an interest.

Sec. 2308.402 [~~684.082~~]. TOWING COMPANY PROHIBITED FROM FINANCIAL INVOLVEMENT WITH PARKING FACILITY OWNER. (a) A towing company may not directly or indirectly give anything of value to a parking facility owner in connection with the removal of a vehicle from a parking facility.

(b) A towing company may not have a direct or indirect monetary interest in a parking facility from which the towing company for compensation removes unauthorized vehicles.

Sec. 2308.403 [~~684.083~~]. LIMITATION ON LIABILITY OF PARKING FACILITY OWNER FOR REMOVAL OR STORAGE OF UNAUTHORIZED VEHICLE. A parking facility owner who causes the removal of an unauthorized vehicle is not liable for damages arising from the removal or storage of the vehicle if the vehicle:

(1) was removed in compliance with this chapter; and

(2) is:

(A) removed by a towing company insured against liability for property damage incurred in towing a vehicle; and

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

Sec. 2308.404 [~~684.084~~]. CIVIL LIABILITY OF TOWING COMPANY OR PARKING FACILITY OWNER FOR VIOLATION OF CHAPTER. (a) A towing

company or parking facility owner who violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for:

(1) damages arising from the removal or storage of the vehicle; and

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

(b) A vehicle's owner or operator is not required to prove negligence of a parking facility owner or towing company to recover under Subsection (a).

(c) A towing 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 $300 plus three times the amount of fees assessed in the vehicle's removal, towing, or storage.

(d) In a suit brought under this chapter, the prevailing party is entitled to recover reasonable attorney's fees.

Sec. 2308.405 [~~684.085~~]. VIOLATION OF CHAPTER; FINE. A violation of this chapter is a misdemeanor punishable by a fine of not less than $500 or more than $1,500.

Sec. 2308.406 [~~684.086~~]. VIOLATION OF CHAPTER; INJUNCTION. A violation of this chapter may be enjoined under Subchapter E, Chapter 17, Business & Commerce Code.

Sec. 2308.407 [~~684.087~~]. MINOR SIGN OR LETTERING HEIGHT VARIATIONS. A minor variation of a required or minimum height of a sign or lettering is not a violation of this chapter.

SECTION 2.07. Sections 685.002 through 685.010,

Transportation Code, are transferred to Chapter 2308, Occupations Code, designated as Subchapter J, Chapter 2308, Occupations Code, renumbered as Sections 2308.451 through 2308.459, Occupations Code, and amended to read as follows:

SUBCHAPTER J. RIGHTS OF OWNERS AND OPERATORS OF STORED VEHICLES

Sec. 2308.451 [~~685.002~~]. PAYMENT OF COST OF REMOVAL AND STORAGE OF VEHICLE. (a) If in a hearing held under this chapter the court finds that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person who requested the hearing shall pay the costs of the removal and storage.

(b) If in a hearing held under this chapter the court does not find that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person or law enforcement agency that authorized the removal shall:

(1) pay the costs of the removal and storage; or

(2) reimburse the owner or operator for the cost of the removal and storage paid by the owner or operator.

Sec. 2308.452 [~~685.003~~]. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO HEARING. The owner or operator of a vehicle that has been removed and placed in a vehicle storage facility without the consent of the owner or operator of the vehicle is entitled to a hearing on whether probable cause existed for the removal and placement.

Sec. 2308.453 [~~685.004~~]. JURISDICTION. A hearing under this chapter shall be in the justice court having jurisdiction in

the precinct in which the vehicle storage facility is located.

Sec. 2308.454 [~~685.005~~]. NOTICE TO VEHICLE OWNER OR OPERATOR. (a) If before a hearing held under this chapter the owner or operator of a vehicle pays the costs of the vehicle's 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 chapter.

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

Sec. 2308.455 [~~685.006~~]. CONTENTS OF NOTICE. The notice under Section 2308.454 [~~685.005~~] must include:

(1) a statement of:

(A) the person's right to submit a request within 14 days for a court hearing to determine whether probable cause existed to remove the vehicle;

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

(C) any filing fee for the hearing;

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

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

(4) the name, address, and telephone number of the person, property owner, or law enforcement agency that authorized

the removal of the vehicle; and

(5) the name, address, and telephone number of the justice court having jurisdiction in the precinct in which the vehicle storage facility is located.

Sec. 2308.456 [~~685.007~~]. REQUEST FOR HEARING. (a) Except as provided by Subsection (c), a person entitled to a hearing under this chapter must deliver a written request for the hearing to the court before the 14th day after the date the vehicle was removed and placed in the vehicle storage facility, excluding Saturdays, Sundays, and legal holidays.

(b) A request for a hearing must contain:

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

(2) the location from which the vehicle was removed;

(3) the date when the vehicle was removed;

(4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal;

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

(6) the name, address, and telephone number of the towing company that removed the vehicle;

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

(8) if the vehicle was removed from a parking facility:

(A) one or more photographs that show the

location and text of any sign posted at the facility restricting parking of vehicles; or

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

(c) If notice was not given under Section 2308.454 [~~685.005~~], the 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.

(d) A person who fails to deliver a request in accordance with Subsection (a) waives the right to a hearing.

Sec. 2308.457 [~~685.008~~]. FILING FEE AUTHORIZED. The court may charge a filing fee of $20 for a hearing under this chapter.

Sec. 2308.458 [~~685.009~~]. HEARING. (a) A hearing under this chapter shall be held before the 14th [~~10th~~] working day after the date the court receives the request for the hearing.

(b) The court shall notify the person who requested the hearing, [~~and~~] the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure [~~by registered or certified mail~~]. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.

(b-1) At a hearing under this section:

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

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

(c) The issues in a hearing 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 [~~643.201~~] or 2308.202 [~~643.203~~];

(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 [~~643.204~~] or 2308.204 [~~643.205~~]; or

(4) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount filed with the department under Section 2308.206 [~~643.207~~].

(d) The court shall make written findings of fact and a conclusion of law.

(e) The court may award:

(1) court costs to the prevailing party;

(2) the reasonable cost of photographs submitted under Section 2308.456(b)(8) [~~685.007(b)(8)~~] to a vehicle owner or operator who is the prevailing party; [~~and~~]

(3) an amount equal to the amount that the towing charge exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303; and

(4) reimbursement of fees paid for vehicle towing and storage [~~, Occupations Code~~].

Sec. 2308.459 [~~685.010~~]. APPEAL. An appeal from a hearing under this chapter is governed by the rules of procedure applicable to civil cases in justice court, except that no appeal bond may be required by the court.

SECTION 2.08. Subchapter J, Chapter 2308, Occupations Code, as added by this Act, is amended by adding Section 2308.460 to read as follows:

Sec. 2308.460. ENFORCEMENT OF AWARD. An award under this chapter may be enforced by any means available for the enforcement of a judgment for a debt.

SECTION 2.09. Chapter 2308, Occupations Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. ENFORCEMENT

Sec. 2308.501. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a registration, permit, or license under this chapter, if the person violates:

(1) this chapter or a rule adopted under this chapter; or

(2) a rule or order of the executive director or commission.

(b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 2308.502. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

Sec. 2308.503. SANCTIONS. The department may impose sanctions as provided by Section 51.353.

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

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

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

(3) employs an individual who does not hold the appropriate license required by this chapter; or

(4) falsifies a certification or training.

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

SECTION 2.10. Section 643.253(d), Transportation Code, is transferred to Subchapter K, Chapter 2308, Occupations Code, renumbered as Section 2308.505, Occupations Code, and amended to read as follows:

Sec. 2308.505. CRIMINAL PENALTY; TOWING. (a) [~~(d)~~] 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 [~~643.201~~] or 2308.202 [~~643.203~~], 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 [~~643.201~~] or 2308.202 [~~643.203~~] 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 [~~643.205~~];

(4) charges or collects a fee in excess of the amount filed with the department under Section 2308.206 [~~643.207~~];

(5) violates Section 2308.205 [~~643.206~~]; or

(6) violates a rule of the department applicable to a tow truck and towing company.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $200 or more than $1,000 per violation.

ARTICLE 3. CONFORMING AMENDMENTS

SECTION 3.01. Article 18.23(e), Code of Criminal Procedure, is amended to read as follows:

(e) Subchapter J, Chapter 2308, Occupations Code [~~Chapter 685, Transportation Code~~], does not apply to a motor vehicle directed by a law enforcement agency to be towed and stored for an evidentiary or examination purpose.

SECTION 3.02. Section 101.141(a), Government Code, is amended to read as follows:

(a) A clerk of a justice court shall collect fees and costs

as follows:

(1) additional court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the commissioners court of a county with a population of at least 2.5 million (Sec. 152.005, Civil Practice and Remedies Code) . . . not to exceed $3;

(2) additional filing fees:

(A) to fund Dallas County civil court facilities (Sec. 51.705, Government Code) . . . not more than $15; and

(B) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . $2;

(3) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . $1.50;

(4) fee for hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 2308.457, Occupations Code [~~685.008, Transportation Code~~]) . . . $20;

(5) court fees and costs, if ordered by the court, for a suit filed by an inmate in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 20 percent of the preceding six months' deposits to the inmate's trust account administered by the Texas

Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs;

(6) monthly payment for remaining court fees and costs after the initial payment for a suit in which an affidavit or unsworn declaration of inability to pay costs is filed by the inmate (Sec. 14.006, Civil Practice and Remedies Code) . . . the lesser of:

(A) 10 percent of that month's deposit to the inmate's trust account administered by the Texas Department of Criminal Justice under Section 501.014, Government Code; or

(B) the total amount of court fees and costs that remain unpaid;

(7) the following costs not otherwise charged to the inmate under Section 14.006, Civil Practice and Remedies Code, if the inmate has previously filed an action dismissed as malicious or frivolous (Sec. 14.007, Civil Practice and Remedies Code):

(A) expenses of service of process;

(B) postage; and

(C) transportation, housing, or medical care incurred in connection with the appearance of the inmate in the court for any proceeding; and

(8) the cost of a special program that a court may order a child to attend after a finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed $100.

SECTION 3.03. Section 101.161, Government Code, is amended

to read as follows:

Sec. 101.161. MUNICIPAL COURT FEES AND COSTS. The clerk of a municipal court shall collect:

(1) a fee for a hearing on probable cause for removal of a vehicle and placement in a storage facility if assessed by the court (Sec. 2308.457, Occupations Code [~~685.008, Transportation Code~~]) . . . $20; and

(2) the cost of a special program that a court may order a child to attend after finding that the child committed an offense, if ordered by the court (Art. 45.057, Code of Criminal Procedure) . . . costs of the program not to exceed $100.

SECTION 3.04. Section 2303.155(f), Occupations Code, is amended to read as follows:

(f) The operator of a vehicle storage facility or governmental vehicle storage facility may not charge an additional fee related to the storage of a vehicle other than a fee authorized by this section or a towing fee authorized by Chapter 2308 [~~Chapter 643, Transportation Code~~].

SECTION 3.05. Section 504.508(c), Transportation Code, is amended to read as follows:

(c) Proof of eligibility for license plates under this section must include a copy of the permit [~~registration~~] certificate issued by the Texas Department of Licensing and Regulation [~~department~~] for the tow truck.

SECTION 3.06. Section 643.002, Transportation Code, is amended to read as follows:

Sec. 643.002. EXEMPTIONS. This chapter does not apply to:

(1) a motor vehicle registered under the single state registration system established under 49 U.S.C. Section 14504(c) when operating exclusively in interstate or international commerce;

(2) a motor vehicle registered as a cotton vehicle under Section 502.277;

(3) a motor vehicle the department by rule exempts because the vehicle is subject to comparable registration and a comparable safety program administered by another governmental entity;

(4) a motor vehicle used to transport passengers operated by an entity whose primary function is not the transportation of passengers, such as a vehicle operated by a hotel, day-care center, public or private school, nursing home, or similar organization;

(5) a vehicle operating under a private carrier permit issued under Chapter 42, Alcoholic Beverage Code; [~~or~~]

(6) a vehicle operated by a governmental entity; or

(7) a tow truck, as defined by Section 2308.002, Occupations Code.

SECTION 3.07. Section 643.051(a), Transportation Code, is amended to read as follows:

(a) A motor carrier may not operate a commercial motor vehicle, as defined by Section 548.001, [~~or a tow truck~~] on a road or highway of this state unless the carrier registers with the department under this subchapter.

SECTION 3.08. Section 643.053, Transportation Code, is

amended to read as follows:

Sec. 643.053. FILING OF APPLICATION. An application under Section 643.052 must be filed with the department and accompanied by:

(1) an application fee of $100 plus a $10 fee for each vehicle requiring registration [~~other than a tow truck or a $25 fee for each tow truck the motor carrier proposes to operate~~];

(2) evidence of insurance or financial responsibility as required by Section 643.103(a); and

(3) any insurance filing fee required under Section 643.103(c).

SECTION 3.09. Sections 643.057(a) and (d), Transportation Code, are amended to read as follows:

(a) A motor carrier may not operate an additional vehicle requiring registration unless the carrier pays a registration fee of $10 for each additional vehicle [~~other than a tow truck or $25 for each tow truck~~] and shows the department evidence of insurance or financial responsibility for the vehicle in an amount at least equal to the amount set by the department under Section 643.101.

(d) The department may not collect more than $10 in equipment registration fees for a vehicle [~~other than a tow truck~~] registered under both this subchapter and Chapter 645 [~~or more than $25 if the vehicle is a tow truck~~].

SECTION 3.10. Section 643.058(c), Transportation Code, is amended to read as follows:

(c) A motor carrier may renew a registration under this subchapter by:

(1) supplementing the application with any new information required under Section 643.056;

(2) paying a $10 fee for each vehicle requiring registration [~~other than a tow truck or a fee of $25 for each tow truck the carrier operates~~]; and

(3) providing the department evidence of continuing insurance or financial responsibility in an amount at least equal to the amount set by the department under Section 643.101.

SECTION 3.11. Section 643.061(b), Transportation Code, is amended to read as follows:

(b) A motor carrier applying for registration under this section must pay:

(1) a $20 fee for each vehicle registered [~~other than a tow truck or a fee of $50 for each tow truck~~] under Subsection (a)(1);

(2) a $10 fee for each vehicle registered [~~other than a tow truck or a fee of $25 for each tow truck~~] under Subsection (a)(2); and

(3) application and insurance filing fees the department by rule adopts in an amount not to exceed $100 each.

SECTION 3.12. Section 643.253(e), Transportation Code, is amended to read as follows:

(e) An offense under Subsection (b) [~~or (d)~~] is a misdemeanor punishable by a fine of not less than $200 or more than $1,000 per violation.

SECTION 3.13. Section 1(1), Chapter 528, Acts of the 76th Legislature, Regular Session, 1999 (Article 178d-1, Vernon's Texas

Civil Statutes), is amended to read as follows:

(1) "Parking facility," "parking facility owner," and "vehicle" have the meanings assigned by Section 2308.002, Occupations Code [~~684.001, Transportation Code~~].

ARTICLE 4. MISCELLANEOUS

SECTION 4.01. Section 683.012, Transportation Code, is amended by adding Subsection (f) to read as follows:

(f) In addition to the notice required under Subsection (a), if a law enforcement agency takes an abandoned motor vehicle into custody, the agency shall notify a person that files a theft report or similar report prepared by any law enforcement agency for the vehicle of that fact. The notice must be sent by regular mail on the next business day after the agency takes the vehicle into custody. The law enforcement agency shall also provide the name and address of the person that filed the theft report or similar report to the vehicle storage facility or governmental vehicle storage facility that is storing the vehicle.

ARTICLE 5. TRANSITION AND EFFECTIVE DATE

SECTION 5.01. (a) The following provisions of the Transportation Code are repealed:

(1) Section 643.001(7);

(2) Section 643.101(d);

(3) Section 643.202;

(4) Section 684.001;

(5) Section 685.001;

(6) the heading to Subchapter E, Chapter 643;

(7) the heading to Chapter 684;

(8) the headings to Subchapters A, B, and F, Chapter 684; and

(9) the heading to Chapter 685.

(b) Subchapters E and F, Chapter 2303, Occupations Code, are repealed.

SECTION 5.02. As soon as practicable after the effective date of this Act, the presiding officer of the Texas Commission of Licensing and Regulation shall make the initial appointments to the Towing and Storage Advisory Board. The presiding officer shall appoint two members to terms expiring February 1, 2009, three members to terms expiring February 1, 2011, and three members to terms expiring February 1, 2013.

SECTION 5.03. (a) As soon as practicable after the effective date of this Act, the Texas Department of Transportation and the Texas Department of Licensing and Regulation shall develop and enter into a memorandum of understanding regarding the transfer described in this section that includes a transition plan for transferring the functions performed by the Texas Transportation Commission and the Texas Department of Transportation that relate to tow trucks, towing operations, or vehicle storage facilities to the Texas Department of Licensing and Regulation. The transition plan must include a timetable with specific steps and deadlines needed to complete the transfer, and may include provisions for the extension of expiration dates for licenses.

(b) In accordance with the transition plan developed by the Texas Department of Transportation and the Texas Department of Licensing and Regulation under Subsection (a) of this section, on

January 1, 2008:

(1) all functions and activities performed by the Texas Transportation Commission and the Texas Department of Transportation relating to tow trucks, towing operations, or vehicle storage facilities immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Transportation Commission and the Texas Department of Transportation that relates to tow trucks, towing operations, or vehicle storage facilities is a rule or form of the Texas Commission of Licensing and Regulation or the Texas Department of Licensing and Regulation, as applicable, and remains in effect until amended or replaced by that commission or department;

(3) a reference in law to or an administrative rule of the Texas Transportation Commission and the Texas Department of Transportation that relates to tow trucks, towing operations, or vehicle storage facilities means the Texas Commission of Licensing and Regulation or the Texas Department of Licensing and Regulation, as applicable;

(4) a complaint, investigation, or other proceeding before the Texas Transportation Commission or the Texas Department of Transportation that is related to tow trucks, towing operations, or vehicle storage facilities is transferred without change in status to the Texas Department of Licensing and Regulation, and the Texas Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Transportation Commission and the Texas Department of

Transportation in an action or proceeding to which the Texas Transportation Commission or the Texas Department of Transportation is a party;

(5) all full-time equivalent employee positions at the Texas Department of Transportation that primarily concern the administration of tow trucks, towing operations, or vehicle storage facilities become positions at the Texas Department of Licensing and Regulation, and when filling the positions, the Texas Department of Licensing and Regulation shall give first consideration to an applicant who, as of December 31, 2007, was a full-time employee at the Texas Department of Transportation primarily involved in administering tow trucks, towing operations, or vehicle storage facilities;

(6) all money, contracts, leases, property, and obligations of the Texas Department of Transportation related to the regulation of tow trucks, towing operations, or vehicle storage facilities are transferred to the Texas Department of Licensing and Regulation;

(7) all property in the custody of the Texas Department of Transportation related to tow trucks, towing operations, or vehicle storage facilities is transferred to the Texas Department of Licensing and Regulation; and

(8) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Transportation Commission and the Texas Department of Transportation related to tow trucks, towing operations, or vehicle storage facilities is transferred to the Texas Department of Licensing and Regulation.

(c) Before January 1, 2008, the Texas Department of Transportation may agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Department of Transportation to the Texas Department of Licensing and Regulation to implement the transfer required by this Act.

(d) In the period beginning with the effective date of this Act and ending on December 31, 2007, the Texas Transportation Commission and the Texas Department of Transportation shall continue to perform functions and activities under Chapter 2303, Occupations Code, and those portions of Chapters 643 and 684, Transportation Code, that relate to tow trucks, towing operations, or vehicle storage facilities, as if those laws were not amended by this Act, and the former law is continued in effect for that purpose.

SECTION 5.04. Not later than April 1, 2008, the Texas Commission of Licensing and Regulation shall adopt rules relating to an original application for a permit or license under Chapter 2303, Occupations Code, as amended by this Act, and Chapter 2308, Occupations Code, as added by this Act.

SECTION 5.05. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2007.

(b) Section 2308.504, Occupations Code, as added by this Act, and Subchapters C and D, Chapter 2308, Occupations Code, as added by this Act, take effect September 1, 2008.

President of the Senate

Speaker of the House

I certify that H.B. No. 2094 was passed by the House on April 13, 2007, by the following vote: Yeas 143, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2094 on May 25, 2007, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2094 on May 28, 2007, by the following vote: Yeas 142, Nays 1, 2 present, not voting.

Chief Clerk of the House

H.B. No. 2094

I certify that H.B. No. 2094 was passed by the Senate, with amendments, on May 22, 2007, by the following vote: Yeas 29, Nays 1; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2094 on May 27, 2007, by the following vote: Yeas 29, Nays 1.

_____

Secretary of the Senate

APPROVED: _____

Date

_____

Governor

President of the Senate | Speaker of the House

I certify that H.B. No. 2094 (1) was passed by the House on April 13 (2), 2007, by the following vote: Yeas 143 (3), Nays 0, 2 present, not voting (4); that the House refused to concur in Senate amendments to H.B. No. 2094 on May 25 (5), 2007, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2094 on May 28 (6), 2007, by the following vote: Yeas 142 (7), Nays 1, 2 present, not voting (8).

Chief Clerk of the House

**** Preparation: CT43

I certify that H.B. No. 2094 (1) was passed by the Senate, with amendments, on May 22 (2), 2007, by the following vote: Yeas 29 (3), Nays 1 (4); at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2094 on May 27 (5), 2007, by the following vote: Yeas 29 (6), Nays 1 (7).

Secretary of the Senate

APPROVED:

Date

Governor

**** Preparation: CT44

80TH LEGISLATURE

COAUTHOR AUTHORIZATION

(please request your coauthors to sign this form in lieu of the front or the back of the original bill)

Bill or Resolution Number: HB 2094

Fred Hill — signature of **primary** author

FRED HILL — printed name of **primary** author

FEB 27 2007 — Date

PERMISSION TO SIGN HB 2094 (bill or resolution #) HAS BEEN GIVEN TO **(check only one of the following)**:

✓ ALL REPRESENTATIVES

____ THE FOLLOWING REPRESENTATIVE(S): _____

I authorize the Chief Clerk to include my name as a coauthor of the legislation indicated above:

A2100 Allen	Date	A2450 Cook, Byron	Date	A2795 Farabee	Date
A2125 Alonzo	Date	A2565 Cook, Robby	Date	A2820 Farias	Date
A2150 Anchia	Date	A2595 Corte	Date	A2810 Farrar	Date
A2155 Anderson	Date	A2605 Crabb	Date	A2840 Flores	Date
A2145 Aycock	Date	A2610 Craddick	Date	A2850 Flynn	Date
A2160 Bailey	Date	A2615 Creighton	Date	A2860 Frost	Date
A2205 Berman	Date	A2640 Crownover	Date	A2920 Gallego	Date
A2230 Bohac	Date	A2645 Darby	Date	A2915 Garcia	Date
A2240 Bolton	Date	A2620 Davis, John	Date	A2960 Gattis	Date
A2250 Bonnen	Date	A2625 Davis, Yvonne	Date	A2945 Geren	Date
A2280 Branch	Date	A2680 Delisi	Date	A2935 Giddings	Date
A2265 Brown, Betty	Date	A2690 Deshotel	Date	A2910 Gonzales	Date
A2270 Brown, Fred	Date	A2705 Driver	Date	A4660 Gonzalez Toureilles	Date
A2255 Burnam	Date	A2665 Dukes	Date	A2990 Goolsby	Date
A2295 Callegari	Date	A2660 Dunnam	Date	A3045 Guillen	Date
A2495 Castro	Date	A2650 Dutton	Date	A3035 Haggerty	Date
A2585 Chavez	Date	A2775 Eiland	Date	A3050 Hamilton	Date
A2480 Chisum	Date	A2780 Eissler	Date	A3100 Hancock	Date
A2525 Christian	Date	A2785 Elkins	Date	A3160 Hardcastle	Date
A2425 Cohen	Date	A2805 England	Date	A3150 Harless	Date
A2435 Coleman	Date	A2800 Escobar	Date	A3165 Harper-Brown	Date

Bill or Resolution Number: HB 2094

A3170 Hartnett	Date	A3730 Mallory Caraway	Date	A4200 Puente	Date
A3175 Heflin	Date	A3780 Martinez	Date	A4230 Quintanilla	Date
A3155 Hernandez	Date	A2835 Martinez Fischer	Date	A4215 Raymond	Date
A3140 Herrero	Date	A3665 McCall	Date	A4220 Riddle	Date
A3250 Hilderbran	Date	A3650 McClendon	Date	A4250 Ritter	Date
A3275 Hill	Date	A3845 McReynolds	Date	A4270 Rodriguez	Date
A3305 Hochberg	Date	A3830 Menendez	Date	A4350 Rose	Date
A3290 Hodge	Date	A3840 Merritt	Date	A4525 Smith, Todd	Date
A3325 Homer	Date	A3825 Miles	Date	A4540 Smith, Wayne	Date
A3330 Hopson	Date	A3835 Miller	Date	A4530 Smithee	Date
A3315 Howard, Charlie	Date	A3860 Moreno	Date	A4505 Solomons	Date
A3310 Howard, Donna	Date	A3870 Morrison	Date	A4545 Strama	Date
A3340 Hughes	Date	A3865 Mowery	Date	A4565 Straus	Date
A3375 Isett	Date	A3875 Murphy	Date	A4570 Swinford	Date
A3350 Jackson	Date	A3885 Naishtat	Date	A4585 Talton	Date
A3405 Jones	Date	A3900 Noriega	Date	A4600 Taylor	Date
A3480 Keffer	Date	A3880 Oliveira	Date	A4630 Thompson	Date
A3470 King, Phil	Date	A3886 Olivo	Date	A4650 Truitt	Date
A3460 King, Susan	Date	A3930 Orr	Date	A4685 Turner	Date
A3465 King, Tracy	Date	A3940 Ortiz, Jr.	Date	A4700 Van Arsdale	Date
A3495 Kolkhorst	Date	A3945 Otto	Date	A4780 Vaught	Date
A3485 Krusee	Date	A4090 Parker	Date	A4725 Veasey	Date
A3450 Kuempel	Date	A4050 Patrick	Date	A4800 Villarreal	Date
A3520 Latham	Date	A4100 Paxton	Date	A4900 Vo	Date
A3540 Laubenberg	Date	A4140 Pena	Date	A4995 West	Date
A3560 Leibowitz	Date	A3240 Pierson	Date	A5005 Woolley	Date
A3610 Lucio, III	Date	A4160 Phillips	Date	A5150 Zedler	Date
A3705 Macias	Date	A4180 Pickett	Date	A5170 Zerwas	Date
A3715 Madden	Date	A4185 Pitts	Date	District 29	Date

H.B. No. 2094 By Jim Hill

A BILL TO BE ENTITLED
AN ACT

relating to hearings for owners or operators of vehicles that are towed and subsequently stored in a facility.

FEB 27 2007 Filed with the Chief Clerk

MAR 05 2007 Read first time and referred to Committee on Transportation

MAR 20 2007 Reported ____ favorably (~~as amended~~)
(~~as substituted~~)

MAR 22 2007 Sent to Committee on (~~Calendars~~)
(Local & Consent Calendars)

APR 13 2007 Read second time (~~comm. subst.~~)(~~amended~~), passed to third reading (~~failed~~) by a (non-record vote)
(~~record vote of ____ yeas, ____ nays, ____ present, not voting~~)

____ Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of ____ yeas, ____ nays, ____ present, not voting

APR 13 2007 Read third time (~~amended~~); finally passed (~~failed to pass~~) by a (~~non-record vote~~)
(record vote of 143 yeas, 0 nays, 2 present, not voting)

APR 13 2007 Engrossed

APR 16 2007 Sent to Senate

Robert Haney
CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

APR 16 2007 Received from the House

APR 17 2007 Read and referred to Committee on TRANSPORTATION & HOMELAND SECURITY

____ Reported favorably ____

MAY 19 2007 Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

____ Ordered not printed

____ Laid before the Senate

MAY 22 2007 Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(~~____ yeas, ____ nays~~)

MAY 22 2007 Read second time, amended, and passed to third reading by (~~unanimous consent~~)
(a viva voce vote)
(~~____ yeas, ____ nays~~)

MAY 22 2007 Senate and Constitutional 3 Day Rules suspended by a vote of 29 yeas, 1 nays

MAY 22 2007 Read third time, ____, and passed by a (~~viva voce vote~~)
(29 yeas, 1 nays)

AMEND CAPTION TO CONFORM
TO THE BODY OF THE BILL

May 23, 2007 Returned to the House

Patsy Spaw
SECRETARY OF THE SENATE

OTHER SENATE ACTION:

MAY 2 3 2007 Returned from the Senate (as substituted)
(with amendments)

House concurred in Senate amendments by a (non-record vote)
MAY 2 5 2007 (record vote of _____ yeas, _____ nays, _____ present, not voting)

House refused to concur in Senate amendments and requested the appointment of a conference committee
MAY 2 5 2007 by a (non-record vote) ~~(record vote of _____ yeas, _____ nays, _____ present, not voting)~~

House conferees appointed: Hill, Chair; Deshotel,
Krusee, Jackson, Phillips

MAY 2 6 2007 Senate granted House request. Senate conferees appointed: Carona, Chair;
Estes, Ellis, Wentworth, Whitmire

~~MAY 2 8 2007~~ Conference committee report adopted (rejected) by the House by a (~~non-record vote~~)
(record vote of 142 yeas, 1 nays, 2 present, not voting)

MAY 2 7 2007 Conference committee report adopted (~~rejected~~) by the Senate by a (~~non-record vote~~)
(record vote of 29 yeas, 1 nays)

MAY 2 8 2007 Rules suspended to permit consideration.

07 MAR 21 PM 3:46
HOUSE OF REPRESENTATIVES

07 MAY 24 AM 3:11
HOUSE OF REPRESENTATIVES