

BILL ANALYSIS

Senate Research Center

C.S.S.B. 702
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Transportation & Homeland Security
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Legislation passed in the 80th Legislature, Regular Session, 2007, moved oversight of the towing and vehicle storage industry from the Texas Department of Transportation to the Texas Department of Licensing and Regulation (TDLR). The move provided increased oversight and a better regulatory system for the industry. However, several issues have arisen from the transition.

The Occupations Code provides for several types of licenses for a towing operator, including an incident management license, a private property license, and a consent tow operator's license. In addition to the towing operator license, Section 2303.101 (License Required), Occupations Code, requires a license holder in certain circumstances to also hold a vehicle storage facility license. Therefore, towing operators are required to hold two separate licenses from TDLR. This is burdensome to both the license applicant and TDLR, which is required to run two background checks on the same person.

In addition to the towing licenses, Sections 2308.153(b) (relating to requirements for an incident management towing operator's license), 2308.154(b) (relating to requirements for a private property towing operator's license), and 2308.155(b) (relating to requirements for a consent towing operator's license), respectively, require an applicant for a towing operator's license to also have a Texas driver's license. There are towing operators who live in bordering states, such as Arkansas, who work in Texas. These operators are required to obtain a Texas driver's license merely for the purpose of applying for a towing license with TDLR. There is also currently no temporary training license for those who are training to operate a tow truck.

C.S.S.B. 702 requires a person who both works as a towing operator and in a vehicle storage facility to possess a dual license. This bill requires TDLR to issue the license to an applicant who meets certain requirements and any applicable rules and submits to TDLR an application on a TDLR-approved form as well as the required license fee. The bill also provides for a temporary training license for towing operators and adds alcohol testing to the policy a towing company is required to establish for towing operations and requires a sign posted under Subchapter 2308.306 (Notice Regarding Amount Charged for Towing Required) to include the amount that is authorized to be charged for towing.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation (commission) in SECTION 1 (Section 2303.1016, Occupations Code), SECTION 3 (Section 2308.1521, Occupations Code), SECTION 7 (Sections 2308.1551, Occupations Code) of this bill.

Rulemaking authority previously granted to the commission is modified in SECTION 8 (Section 2308.158, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 2303, Occupations Code, by adding Section 2303.1016, as follows:

Sec. 2303.1016. VEHICLE STORAGE FACILITY EMPLOYEE AND TOWING OPERATOR; DUAL LICENSE. (a) Requires the Texas Commission of Licensing and Regulation (commission), to adopt rules for the issuance of a dual license for a person

who is a vehicle storage facility employee and towing operator. Requires the Texas Department of Licensing and Regulation (TDLR) to issue the license to an applicant who meets the requirements established under Section 2303.1015 (Employee License Required), Sections 2308.153 (Incident Management Towing Operator's License), 2308.154 (Private Property Towing Operator's License), or 2308.155 (Consent Towing Operator's License) and any applicable rules adopted under this subchapter or Subchapter D (License Requirements), Chapter 2308 (Vehicle Towing), and submits to TDLR an application on a TDLR-approved form and the required license fee.

(b) Authorizes a person holding a license issued under this section to work at a vehicle storage facility and perform towing operations.

(c) Prohibits the fee for a license issued under this section from being less than the fee for a license issued under Section 2303.1015 or Subchapter D, Chapter 2308; or more than the sum of the fees for a license issued under Section 2303.1015 and a license issued under Subchapter D, Chapter 2308.

SECTION 2. Amends Section 2308.002(11), Occupations Code, to redefine "tow truck."

SECTION 3. Amends Subchapter D, Chapter 2308, Occupations Code, by adding Section 2308.1521, as follows:

Sec. 2308.1521. VEHICLE STORAGE FACILITY EMPLOYEE AND TOWING OPERATOR; DUAL LICENSE. (a) Requires the commission to adopt rules for the issuance of a dual license for a person who is a vehicle storage facility employee and towing operator. Requires TDLR to issue the license to an applicant who meets the requirements established under Sections 2308.153, 2308.154, or 2308.155; Section 2303.1015, and any applicable rules adopted under this subchapter or Subchapter C (License Requirements, Issuance, and Renewal), Chapter 2303 (Vehicle Storage Facilities), and submits to TDLR an application on a TDLR-approved form and the required license fee.

(b) Authorizes a person holding a license issued under this section to work at a vehicle storage facility and perform towing operations.

(c) Prohibits the fee for a license issued under this section from being less than the fee for a license issued under this subchapter or Section 2303.1015, or more than the sum of the fees for a license issued under this subchapter and a license issued under Section 2303.1015.

SECTION 4. Amends Section 2308.153(b), Occupations Code, to require an applicant for an incident management towing operator's license to hold a valid driver's license issued by a state in the United States, rather than be a licensed Texas driver, and be certified by a program approved by TDLR. Deletes existing text requiring a person to be certified by the National Drivers Certification Program of the Towing and Recovery Association of America or another certification program approved by TDLR.

SECTION 5. Amends Section 2308.154(b), Occupations Code, to require an applicant for a private property towing operations license to hold a valid driver's license issued by a state in the United States and be certified by a program approved by TDLR, rather than the national Drivers Certification Program of the Towing and Recovery Association of America or another certification program.

SECTION 6. Amends Section 2308.155(b), Occupations Code, to require an applicant for a consent towing operations license to hold a valid driver's license issued by a state in the United States, rather than be a licensed Texas driver.

SECTION 7. Amends Subchapter D, Chapter 2308, Occupations Code, by adding Section 2308.1551, as follows:

Sec. 2308.1551. TRAINING LICENSE. (a) Authorizes TDLR to issue a training license to an applicant for a license under this subchapter if the applicant holds a valid driver's license issued by a state in the United States, meets the qualifications established by rule by the Texas Commission of Licensing and Regulation (commission), and is engaged in the process of learning and assisting in the operation of a tow truck under the supervision of a tow truck operator.

(b) Authorizes an applicant for a license under Section 2308.153, notwithstanding Subsection (a), to be supervised by an operator who holds a license issued under Section 2308.153, 2308.154 or 2308.155.

(c) Provides that a training license issued under this section expires on the 91st day after the date of issuance and is prohibited from being removed.

(d) Requires the commission by rule to set the fee, establish the qualifications, and provide for the issuance of a training license under this section.

SECTION 8. Amends Section 2308.158, Occupations Code, as follows:

Sec. 2308.158. New heading: ALCOHOL AND DRUG TESTING OF TOWING OPERATORS. (a) Requires a towing company to establish an alcohol and drug testing policy for towing operators. Makes conforming changes.

(b) Requires the commission by rule to adopt a model alcohol and drug testing policy for use by a towing company. Makes conforming changes.

SECTION 9. Amends Section 2308.202, Occupations Code, to require, rather than authorize, the governing body of a political subdivision to regulate the fees that are authorized to be charged or collected in connection with a nonconsent tow originating in the territory of the political subdivision.

SECTION 10. Amends Subchapter G, Chapter 2308, Occupations Code, by adding Section 2308.306, as follows:

Sec. 2308.306. NOTICE REGARDING AMOUNT CHARGED FOR TOWING REQUIRED. Requires that a sign posted under this subchapter include notice regarding the amount that is authorized to be charged for towing.

SECTION 11. (a) Makes application of Sections 2308.153, 2308.154, and 2308.155, Occupations Code, as amended by this Act, prospective.

(b) Requires the commission, not later than April 1, 2010, to adopt the model alcohol and drug testing policy required by Section 2308.158, Occupations Code, as amended by this Act.

(c) Provides that a towing company is not required to comply with the alcohol and drug testing policy required by Section 2308.158, Occupations Code, as amended by this Act, until January 1, 2010.

(d) Requires the commission, not later than April 1, 2010, to adopt rules as necessary to implement Sections 2303.1016, 2308.1521, and 2308.1551, Occupations Code, as added by this Act.

SECTION 12. (a) Effective date, except as provided by Subsection (b): September 1, 2009.

(b) Effective date, Sections 2303.1016, 2308.1521, and 2308.1551, Occupations Code, as added by this Act: June 1, 2010.