

File

Chapter 757

AN ACT

relating to the regulation of the towing and storage of vehicles.

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

SECTION 1. Subchapter C, Chapter 2303, Occupations Code, is amended by adding Section 2303.1016 to read as follows:

Sec. 2303.1016. VEHICLE STORAGE FACILITY EMPLOYEE AND TOWING OPERATOR; DUAL LICENSE. (a) The commission shall adopt rules for the issuance of a dual license for a person who is a vehicle storage facility employee and towing operator. The department shall issue the license to an applicant who:

(1) meets the requirements established under:

(A) Section 2303.1015;

(B) Section 2308.153, 2308.154, or 2308.155; and

(C) any applicable rules adopted under this subchapter or Subchapter D, Chapter 2308; and

(2) submits to the department:

(A) an application on a department-approved form; and

(B) the required license fee.

(b) A person holding a license issued under this section may:

(1) work at a vehicle storage facility; and

(2) perform towing operations.

SECTION 2. Subchapter D, Chapter 2303, Occupations Code, is

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1 amended by adding Sections 2303.1511 and 2303.1551 to read as
2 follows:

3 Sec. 2303.1511. VEHICLE STORAGE FACILITY'S DUTY TO REPORT
4 AFTER ACCEPTING UNAUTHORIZED VEHICLE. (a) A vehicle storage
5 facility accepting a vehicle that is towed under this chapter
6 shall, within two hours after receiving the vehicle, report to the
7 local law enforcement agency with jurisdiction over the area from
8 which the vehicle was towed:

- 9 (1) a general description of the vehicle;
- 10 (2) the state and number of the vehicle's license
11 plate, if any;
- 12 (3) the vehicle identification number of the vehicle,
13 if it can be ascertained;
- 14 (4) the location from which the vehicle was towed; and
- 15 (5) the name and location of the vehicle storage
16 facility where the vehicle is being stored.

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

20 Sec. 2303.1551. REQUIRED POSTING. (a) All storage fees
21 shall be posted at the licensed vehicle storage facility to which
22 the motor vehicle has been delivered and shall be posted in view of
23 the person who claims the vehicle.

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

1 on request.

2 SECTION 3. Subdivision (11), Section 2308.002, Occupations
3 Code, is amended to read as follows:

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

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

9 (B) a motor vehicle towing:

10 (i) a race car;

11 (ii) a motor vehicle for exhibition; or

12 (iii) an antique motor vehicle;

13 (C) a recreational vehicle towing another
14 vehicle;

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

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

20 or

21 (F) a motor vehicle that:

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

24 (ii) only tows vehicles rented by the
25 entity.

26 SECTION 4. Subchapter D, Chapter 2308, Occupations Code, is
27 amended by adding Section 2308.1521 to read as follows:

1 Sec. 2308.1521. VEHICLE STORAGE FACILITY EMPLOYEE AND
2 TOWING OPERATOR; DUAL LICENSE. (a) The commission shall adopt
3 rules for the issuance of a dual license for a person who is a
4 vehicle storage facility employee and towing operator. The
5 department shall issue the license to an applicant who:

- 6 (1) meets the requirements established under:
7 (A) Section 2308.153, 2308.154, or 2308.155;
8 (B) Section 2303.1015; and
9 (C) any applicable rules adopted under this
10 subchapter or Subchapter C, Chapter 2303; and

- 11 (2) submits to the department:
12 (A) an application on a department-approved
13 form; and
14 (B) the required license fee.

15 (b) A person holding a license issued under this section
16 may:

- 17 (1) work at a vehicle storage facility; and
18 (2) perform towing operations.

19 (c) The fee for a license issued under this section may not
20 be:

- 21 (1) less than the fee for a license issued under this
22 subchapter or Section 2303.1015; or
23 (2) more than the sum of the fees for a license issued
24 under this subchapter and a license issued under Section 2303.1015.

25 SECTION 5. Subsection (b), Section 2308.153, Occupations
26 Code, is amended to read as follows:

27 (b) An applicant for an incident management towing

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1 operator's license must:

2 (1) hold a valid driver's license issued by a state in
3 the United States [~~be a licensed Texas driver~~]; and

4 (2) be certified by a [~~the National Drivers~~
5 ~~Certification Program of the Towing and Recovery Association of~~
6 ~~America or another certification~~] program approved by the
7 department.

8 SECTION 6. Subsection (b), Section 2308.154, Occupations
9 Code, is amended to read as follows:

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

12 (1) hold a valid driver's license issued by a state in
13 the United States [~~be a licensed Texas driver~~]; and

14 (2) be certified by a [~~the National Drivers~~
15 ~~Certification Program of the Towing and Recovery Association of~~
16 ~~America or another certification~~] program approved by the
17 department.

18 SECTION 7. Subsection (b), Section 2308.155, Occupations
19 Code, is amended to read as follows:

20 (b) An applicant for a consent towing operator's license
21 must hold a valid driver's license issued by a state in the United
22 States [~~be a licensed Texas driver~~].

23 SECTION 8. Subchapter D, Chapter 2308, Occupations Code, is
24 amended by adding Section 2308.1551 to read as follows:

25 Sec. 2308.1551. TRAINING LICENSE. (a) The department may
26 issue a training license to an applicant for a license under this
27 subchapter if the applicant:

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

3 (2) meets the qualifications established by rule by
4 the commission; and

5 (3) is engaged in the process of learning and
6 assisting in the operation of a tow truck under the supervision of a
7 licensed tow truck operator.

8 (b) Notwithstanding Subsection (a), an applicant for a
9 license under Section 2308.153 may be supervised by an operator who
10 holds a license issued under Section 2308.153, 2308.154, or
11 2308.155.

12 (c) A training license issued under this section expires on
13 the 91st day after the date of issuance and may not be renewed.

14 (d) The commission by rule shall set the fee, establish the
15 qualifications, and provide for the issuance of a training license
16 under this section.

17 SECTION 9. Subsection (c), Section 2308.157, Occupations
18 Code, is amended to read as follows:

19 (c) To renew an incident management towing operator's
20 license the first time, a license holder must complete a
21 professional development course relating to incident management
22 towing that is [~~licensed or certified by the National Safety~~
23 Council or another course] approved and administered by the
24 department under this section.

25 SECTION 10. Section 2308.158, Occupations Code, is amended
26 to read as follows:

27 Sec. 2308.158. ALCOHOL AND DRUG TESTING OF TOWING

S.B. No. 702

1 OPERATORS. (a) A towing company shall establish an alcohol and
2 ~~[a]~~ drug testing policy for towing operators. A towing company that
3 establishes an alcohol and ~~[a]~~ drug testing policy under this
4 subsection may adopt the model alcohol and drug testing policy
5 adopted by the commission or may use another alcohol and drug
6 testing policy that the department determines is at least as
7 stringent as the policy adopted by the commission.

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

- 14 (1) require at least one scheduled drug test each year
15 for each towing operator; and
- 16 (2) authorize random, unannounced alcohol and drug
17 testing for towing operators.

18 SECTION 11. Subsection (a), Section 2308.251, Occupations
19 Code, is amended to read as follows:

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

- 22 (1) is in or obstructs a vehicular traffic aisle,
23 entry, or exit of the parking facility;
- 24 (2) prevents a vehicle from exiting a parking space in
25 the facility;
- 26 (3) is in or obstructs a fire lane marked according to
27 Subsection (c); ~~[or]~~

S.B. No. 702

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

7 (5) is leaking a fluid that presents a hazard or threat
8 to persons or property.

9 SECTION 12. Subchapter F, Chapter 2308, Occupations Code,
10 is amended by adding Section 2308.257 to read as follows:

11 Sec. 2308.257. REMOVAL OF CERTAIN UNAUTHORIZED VEHICLES IN
12 RURAL AREAS. (a) This section applies only to an abandoned
13 vehicle that has damaged a fence on private property in a rural
14 area.

15 (b) A law enforcement agency directing a towing company or
16 tow operator to remove an abandoned vehicle that is located on
17 private property shall provide the towing company or tow operator
18 with the name and telephone number of the property owner or the
19 owner's agent if the owner or agent has provided the information to
20 the law enforcement agency.

21 (c) A towing company or tow operator provided with
22 information under Subsection (b) shall contact the property owner
23 or the owner's agent before entering private property to tow a
24 vehicle described by Subsection (a).

25 SECTION 13. Sections 2308.207 and 2308.256, Occupations
26 Code, are repealed.

27 SECTION 14. (a) The changes in law made by this Act to

S.B. No. 702

1 Sections 2308.153, 2308.154, and 2308.155, Occupations Code, apply
2 only to a license application filed on or after the effective date
3 of this Act. A license application filed before the effective date
4 of this Act is governed by the law in effect when the license
5 application was filed, and the former law is continued in effect for
6 that purpose.

7 (b) Not later than April 1, 2010, the Texas Commission of
8 Licensing and Regulation shall adopt the model alcohol and drug
9 testing policy required by Section 2308.158, Occupations Code, as
10 amended by this Act.

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

14 (d) Not later than April 1, 2010, the Texas Commission of
15 Licensing and Regulation shall adopt rules as necessary to
16 implement Sections 2303.1016, 2308.1521, and 2308.1551,
17 Occupations Code, as added by this Act.

18 SECTION 15. (a) Except as provided by Subsection (b) of
19 this section, this Act takes effect September 1, 2009.

20 (b) Sections 2303.1016, 2308.1521, and 2308.1551,
21 Occupations Code, as added by this Act, take effect June 1, 2010.

David Newkumst
President of the Senate

Jim Strawn
Speaker of the House

I hereby certify that S.B. No. 702 passed the Senate on April 2, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 29, 2009, by the following vote: Yeas 31, Nays 0.

Datsy Spaw
Secretary of the Senate

I hereby certify that S.B. No. 702 passed the House, with amendments, on May 19, 2009, by the following vote: Yeas 145, Nays 0, one present not voting.

Robert Hamey
Chief Clerk of the House

Approved:

19 JUN '09
Date

RICK PERRY
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2:00 O'CLOCK
JUN 19 2009

Colby Hunter III