

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;

1           (3) govern the administration of this chapter.

2           SECTION 1.03. Subchapter B, Chapter 2303, Occupations Code,  
3 is amended by adding Sections 2303.055, 2303.056, 2303.057, and  
4 2303.058 to read as follows:

5           Sec. 2303.055. EXAMINATION OF CRIMINAL CONVICTION. The  
6 department may conduct an examination of any criminal conviction of  
7 an applicant, including by obtaining any criminal history record  
8 information permitted by law.

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

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

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

18           (b) At least once every two years, the department shall  
19 inspect a vehicle storage facility that holds a license under this  
20 chapter.

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

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

26           (2) the inspection history of the vehicle storage  
27 facility;

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

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

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

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

10           Sec. 2303.058. ADVISORY BOARD. The Towing and Storage  
11 Advisory Board under Chapter 2308 shall advise the commission in  
12 adopting vehicle storage rules under this chapter.

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

15           Sec. 2303.101. FACILITY LICENSE REQUIRED.

16           SECTION 1.05. Subchapter C, Chapter 2303, Occupations Code,  
17 is amended by adding Section 2303.1015 to read as follows:

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

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

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

25           (a) The commission by rule shall determine the types of  
26 information to be included in an application for a license under  
27 this chapter on a form prescribed by the executive director.

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

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

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

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

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

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

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

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

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

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

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

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

6 (3) a daily storage fee of:

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

10 (B) \$35 for each day or part of a day the vehicle  
11 is stored at the facility if the vehicle is longer than 25 feet;

12 [~~and~~]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 or

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

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

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

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

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

23               CHAPTER 2308. VEHICLE TOWING

24               SUBCHAPTER A. GENERAL PROVISIONS

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

27       Sec. 2308.002. DEFINITIONS. In this chapter:

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

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

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

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

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

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

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

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

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

27                           (i) a portion of the right-of-way of a



1 public roadway that is leased by a governmental entity to the  
2 parking facility owner; and

3 (ii) the area between the facility's  
4 property line abutting a county or municipal public roadway and the  
5 center line of the roadway's drainage way or the curb of the  
6 roadway, whichever is farther from the facility's property line.

7 (8) "Parking facility owner" means:

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

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

14 (C) a property owner having an exclusive right  
15 under a dedicatory instrument, as that term is defined in Section  
16 202.001, Property Code, to use a parking space.

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

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

22 (11) "Tow truck" means a motor vehicle, including a  
23 wrecker, equipped with a mechanical device used to tow, winch, or  
24 otherwise move another motor vehicle.

25 (12) "Towing company" means an individual,  
26 association, corporation, or other legal entity that controls,  
27 operates, or directs the operation of one or more tow trucks over a

1 public roadway in this state but does not include a political  
2 subdivision of the state.

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

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

12 (15) "Vehicle owner" means a person:

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

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

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

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

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

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

1 the facility.

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

10 (b) This section expires September 1, 2009.

11 [Sections 2308.004-2308.050 reserved for expansion]

12 SUBCHAPTER B. ADVISORY BOARD

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

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

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

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

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

25 (5) one parking facility owner;

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

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

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

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

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

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

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

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

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

25          Sec. 2308.054. COMPENSATION; REIMBURSEMENT OF EXPENSES.  
26 Advisory board members may not receive compensation but are  
27 entitled to reimbursement for actual and necessary expenses

1 incurred in performing the functions of the advisory board, subject  
2 to the General Appropriations Act.

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

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

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

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

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

17 Sec. 2308.059. PERIODIC AND RISK-BASED INSPECTIONS. (a)  
18 The department may enter and inspect at any time during business  
19 hours:

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

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

26 (b) The department shall conduct additional inspections  
27 based on a schedule of risk-based inspections using the following

1 criteria:

2 (1) the type and nature of the towing company or  
3 operator;

4 (2) the inspection history;

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

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

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

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

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

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

23 [Sections 2308.062-2308.100 reserved for expansion]

24 SUBCHAPTER C. TOW TRUCK PERMIT REQUIREMENTS

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

1 under this subchapter. Each tow truck requires a separate permit.

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

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

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

8 (3) the required fees; and

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

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

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

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

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

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

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

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

3        (d) When a tow truck is used for a nonconsent tow initiated  
4 by a peace officer under Section 545.3051, Transportation Code, the  
5 permit holder is an agent of law enforcement and is subject to  
6 Section 545.3051(e), Transportation Code.

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

11        (b) To be eligible for a private property towing permit, an  
12 applicant must submit evidence that:

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

16            (2) the applicant has at least \$300,000 of liability  
17 insurance for the tow truck; and

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

20        (c) A tow truck permitted under this section may also be  
21 used for consent towing but not for incident management towing.

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

25        (b) To be eligible for a consent towing permit, an applicant  
26 must submit evidence that:

27            (1) the tow truck is equipped to tow light-duty or



1 heavy-duty vehicles according to the manufacturer's towing  
2 guidelines; and

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

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

8 Sec. 2308.106. DEPARTMENT APPROVAL; ISSUANCE OF PERMIT.

9 (a) The department shall issue a permit under this subchapter to an  
10 applicant who meets the requirements for a permit. The department  
11 may deny an application if the applicant has had a permit revoked  
12 under this chapter.

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

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

20 (b) The department shall notify the permit holder at least  
21 30 days before the date a permit expires. The notice must be in  
22 writing and sent to the permit holder's last known address  
23 according to the records of the department.

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

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

27 (2) providing to the department evidence of continuing

1 insurance or financial responsibility in an amount required by this  
2 chapter.

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

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

7 (2) show the type of permit issued;

8 (3) show the vehicle unit number;

9 (4) show the vehicle identification number; and

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

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

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

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

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

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

27 Sec. 2308.109. DISPLAY OF INFORMATION ON TOW TRUCK. (a) A

1 permit holder shall display on each permitted tow truck:

2 (1) the permit holder's name;

3 (2) the permit holder's telephone number;

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

6 (4) the permit number for the tow truck.

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

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

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

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

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

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

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

24 [Sections 2308.111-2308.150 reserved for expansion]

25 SUBCHAPTER D. LICENSE REQUIREMENTS

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

1           (1) perform towing operations; or

2           (2) operate a towing company.

3           Sec. 2308.152. GENERAL LICENSE APPLICATION REQUIREMENTS.

4 An applicant for a license under this subchapter must submit to the  
5 department:

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

8           (2) the required fees; and

9           (3) any other information required by commission rule.

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

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

15           (1) be a licensed Texas driver; and

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

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

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

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

24           (1) be a licensed Texas driver; and

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

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

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

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

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

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

17               (1) register with the department; and

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

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

26       Sec. 2308.158. DRUG TESTING OF TOWING OPERATORS. (a) A  
27 towing company shall establish a drug testing policy for towing

1 operators. A towing company that establishes a drug testing policy  
2 under this subsection may adopt the model drug testing policy  
3 adopted by the commission or may use another drug testing policy  
4 that the department determines is at least as stringent as the  
5 policy adopted by the commission.

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

10 The model drug testing policy must:

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

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

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

19 (b) The department shall notify the license holder at least  
20 30 days before the date a license expires. The notice must be in  
21 writing and sent to the license holder's last known address  
22 according to the records of the department.

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

25 (1) paying a renewal fee; and

26 (2) completing continuing education as required by  
27 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

1 subdivision. A fee charged for a license or permit may not exceed  
2 \$15.

3 [~~(e) In this section:~~

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

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

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

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

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

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

25 (b) The governing body of the political subdivision shall  
26 establish or amend the allowable fees for nonconsent tows at  
27 amounts that represent the fair value of the services of a towing



1 company and are reasonably related to any financial or accounting  
2 information provided to the governing body.

3       Sec. 2308.204 [~~643.205~~]. FEES FOR NONCONSENT TOWS IN OTHER  
4 AREAS. (a) In an area in which no political subdivision regulates  
5 the fees that may be charged or collected for a nonconsent tow from  
6 private property, a towing company may charge and collect a fee for  
7 the tow of a motor vehicle from private property in an amount not to  
8 exceed an amount equal to 150 percent of the fee that the towing  
9 company would have been authorized to charge for a nonconsent tow  
10 made at the request of a peace officer of the political subdivision  
11 in which the private property is located.

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

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

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

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

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

9 (b) If a political subdivision begins regulating nonconsent  
10 tow fees, the fees shall be reported to the department by the towing  
11 company before the 30th day after the regulation goes into effect.

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

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

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

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

27 (b) A vehicle storage facility accepting a nonconsent towed

1 vehicle shall post a sign in one inch letters stating "Nonconsent  
2 tow fees schedules available on request." The vehicle storage  
3 facility shall provide a copy of a nonconsent towing fees schedule  
4 on request.

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

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

14 SECTION 2.03. Sections 684.011, 684.012, 684.0125,  
15 684.013, 684.014, and 684.015, Transportation Code, are  
16 transferred to Chapter 2308, Occupations Code, designated as  
17 Subchapter F, Chapter 2308, Transportation Code, renumbered as  
18 Sections 2308.251 through 2308.256, Occupations Code, and amended  
19 to read as follows:

20 SUBCHAPTER F. UNAUTHORIZED VEHICLES

21 Sec. 2308.251 [~~684.011~~]. PROHIBITION AGAINST UNATTENDED  
22 VEHICLES IN CERTAIN AREAS. (a) The owner or operator of a vehicle  
23 may not leave unattended on a parking facility a vehicle that:

24 (1) is in or obstructs a vehicular traffic aisle,  
25 entry, or exit of the parking facility;

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

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

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

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

12           (c) If a government regulation governing the marking of a  
13 fire lane applies to a parking facility, a fire lane in the facility  
14 must be marked as provided by the regulation. If a government  
15 regulation on the marking of a fire lane does not apply to the  
16 parking facility, all curbs of fire lanes must be painted red and be  
17 conspicuously and legibly marked with the warning "FIRE LANE--TOW  
18 AWAY ZONE" in white letters at least three inches tall, at intervals  
19 not exceeding 50 feet.

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

26           (1) signs that comply with Subchapter G [€]  
27 prohibiting unauthorized vehicles are located on the parking

1 facility at the time of towing and for the preceding 24 hours and  
2 remain installed at the time of towing;

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

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

9 (4) the vehicle is:

10 (A) left in violation of Section 2308.251  
11 [~~684.011~~] or 2308.253 [~~684.0125~~]; or

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

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

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

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

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

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

27 (D) a telephone number that is answered 24 hours

1 a day to enable the owner or operator of the vehicle to locate the  
2 vehicle; and

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

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

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

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

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

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

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

26 Sec. 2308.253 [~~684.0125~~]. UNATTENDED VEHICLES ON PARKING  
27 FACILITY OF APARTMENT COMPLEX; REMOVAL AND STORAGE OF VEHICLES.

1 (a) This section applies only to a parking facility serving or  
2 adjacent to an apartment complex consisting of one or more  
3 residential apartment units and any adjacent real property serving  
4 the apartment complex.

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

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

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

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

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

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

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

27 (c) A parking facility owner may not have an emergency

1 vehicle described by Section 2308.251(b) [~~684.011(b)~~] removed from  
2 the parking facility.

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

6 (1) an unexpired license plate or registration  
7 insignia issued for the vehicle under Chapter 502, Transportation  
8 Code, or the vehicle registration law of another state or country;  
9 or

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

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

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

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

25 (f) This section may not be construed:

26 (1) to authorize the owner or operator of a vehicle to  
27 leave an unattended vehicle on property that is not designed or



1 intended for the parking of vehicles; or

2 (2) to limit or restrict the enforcement of Chapter  
3 683, Transportation Code, the abandoned motor vehicle law.

4 (g) A provision of an apartment lease or rental agreement  
5 entered into or renewed on or after January 1, 2004, that is in  
6 conflict or inconsistent with this section is void and may not be  
7 enforced.

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

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

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

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

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

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

26 (B) the owner or operator received notice under  
27 Section 2308.252(a)(2) [~~684.012(a)(2)~~] or the parking facility

1 owner gave notice complying with Section 2308.252(a)(3)  
2 [~~684.012(a)(3)~~]; or

3 (2) the vehicle is:

4 (A) left in violation of Section 2308.251  
5 [~~684.011~~]; or

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

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

11 (1) this chapter;

12 (2) a municipal ordinance that complies with Section  
13 2308.208 [~~684.101~~]; or

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

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

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

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

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

26 Sec. 2308.256 [~~684.015~~]. VEHICLE STORAGE FACILITY'S DUTY  
27 TO REPORT AFTER ACCEPTING UNAUTHORIZED VEHICLE. (a) A vehicle

1 storage facility accepting a vehicle that is towed under this  
2 chapter shall within two hours after receiving the vehicle report  
3 to the police department of the municipality in which the parking  
4 facility is located, or, if the parking facility is not located in a  
5 municipality having a police department, to the sheriff of the  
6 county in which the parking facility is located:

7 (1) a general description of the vehicle;

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

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

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

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

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

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

23 SUBCHAPTER G [e]. SIGNS PROHIBITING UNAUTHORIZED VEHICLES AND  
24 DESIGNATING RESTRICTED AREAS

25 Sec. 2308.301 [~~684.031~~]. GENERAL REQUIREMENTS FOR SIGN  
26 PROHIBITING UNAUTHORIZED VEHICLES. (a) Except as provided by  
27 Subsection (a)(2)(B) and Section 2308.304 [~~684.034~~] or 2308.305

1 ~~[684.035]~~ an unauthorized vehicle may not be towed under Section  
2 2308.252(a)(1) ~~[684.012(a)(1)]~~ unless a sign prohibiting  
3 unauthorized vehicles on a parking facility is:

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

6 (2) located:

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

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

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

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

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

19 (4) installed on the parking facility; and

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

23 (b) Except as provided by Section 2308.305 ~~[684.035]~~, an  
24 unauthorized vehicle may be towed under Section 2308.252(a)(1)  
25 ~~[684.012(a)(1)]~~ only if each sign prohibiting unauthorized  
26 vehicles:

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

- 1           (2) is at least 18 inches wide and 24 inches tall;
- 2           (3) contains the international symbol for towing  
3 vehicles;
- 4           (4) contains a statement describing who may park in  
5 the parking facility and prohibiting all others;
- 6           (5) bears the words "Unauthorized Vehicles Will Be  
7 Towed at Owner's or Operator's Expense";
- 8           (6) contains a statement of the days and hours of  
9 towing enforcement; and
- 10          (7) contains a number, including the area code, of a  
11 telephone that is answered 24 hours a day to enable an owner or  
12 operator of a vehicle to locate the vehicle.

13          Sec. 2308.302 [~~684.032~~]. COLOR, LAYOUT, AND LETTERING  
14 HEIGHT REQUIREMENTS. (a) Except as provided by Section 2308.305  
15 [~~684.035~~], each sign required by this chapter must comply with the  
16 color, layout, and lettering height requirements of this section.

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

22          (c) The portion of the sign immediately below the  
23 international towing symbol must contain the words "Towing  
24 Enforced" or the information provided by Section 2308.301(b)(4)  
25 [~~684.031(b)(4)~~] in lettering at least two inches in height. The  
26 lettering on this portion of the sign must consist of white letters  
27 on a bright red background.

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

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

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

19 Sec. 2308.304 [~~684.034~~]. DESIGNATION OF RESTRICTED PARKING  
20 SPACES ON OTHERWISE UNRESTRICTED PARKING FACILITY. A parking  
21 facility owner may designate one or more spaces as restricted  
22 parking spaces on a portion of an otherwise unrestricted parking  
23 facility. Instead of installing a sign at each entrance to the  
24 parking facility as provided by Section 2308.301(a)(2)  
25 [~~684.031(a)(2)~~], an owner may place a sign that prohibits  
26 unauthorized vehicles from parking in designated spaces and that  
27 otherwise complies with Sections 2308.301 [~~684.031~~] and 2308.302

1 ~~[684.032]~~:

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

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

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

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

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

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

1 SECTION 2.05. Subchapter D, Chapter 684, Transportation  
2 Code, is transferred to Chapter 2308, Occupations Code, and  
3 redesignated as Subchapter H, Chapter 2308, Occupations Code, and  
4 Sections 684.051 through 684.054, Transportation Code, are  
5 renumbered as Sections 2308.351 through 2308.354, Occupations  
6 Code, and amended to read as follows:

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

9 Sec. 2308.351 [~~684.051~~]. REMOVAL OF UNAUTHORIZED VEHICLE  
10 FROM LEASED RIGHT-OF-WAY. Unless prohibited by the lease, a  
11 parking facility owner or towing company may remove an unauthorized  
12 vehicle parked in a leased area described by Section  
13 2308.002(7)(B)(i) [~~684.001(1)(B)(i)~~] if the owner or towing  
14 company gives notice under Section 2308.252(a)(1), (2), or (3)  
15 [~~684.012(a)(1), (2), or (3)~~] and otherwise complies with this  
16 chapter.

17 Sec. 2308.352 [~~684.052~~]. REMOVAL OF UNAUTHORIZED VEHICLE  
18 FROM AREA BETWEEN PARKING FACILITY AND PUBLIC ROADWAY. Unless  
19 prohibited by a municipal ordinance, a parking facility owner or  
20 towing company may remove an unauthorized vehicle any part of which  
21 is in an area described by Section 2308.002(7)(B)(ii)  
22 [~~684.001(1)(B)(ii)~~] if notice provided by Section 2308.252(a)(2)  
23 or (3) [~~684.012(a)(2) or (3)~~] is given and the owner or towing  
24 company has otherwise complied with this chapter.

25 Sec. 2308.353 [~~684.053~~]. REMOVAL UNDER GOVERNMENTAL  
26 ENTITY'S AUTHORITY OF UNAUTHORIZED VEHICLE PARKED IN RIGHT-OF-WAY.  
27 (a) A governmental entity that has jurisdiction over a public



1 roadway and that has posted one or more signs in the right-of-way  
2 stating that parking is prohibited in the right-of-way may:

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

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

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

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

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

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

15 (2) be placed facing the public roadway:

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

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

20 and

21 (3) in all other respects comply with Subchapter G  
22 [E].

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

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

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

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

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

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

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

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

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

23                               FACILITY OWNERS

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

1 vehicle from a parking facility.

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

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

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

14 Sec. 2308.403 [~~684.083~~]. LIMITATION ON LIABILITY OF PARKING  
15 FACILITY OWNER FOR REMOVAL OR STORAGE OF UNAUTHORIZED VEHICLE. A  
16 parking facility owner who causes the removal of an unauthorized  
17 vehicle is not liable for damages arising from the removal or  
18 storage of the vehicle if the vehicle:

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

20 (2) is:

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

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

26 Sec. 2308.404 [~~684.084~~]. CIVIL LIABILITY OF TOWING COMPANY  
27 OR PARKING FACILITY OWNER FOR VIOLATION OF CHAPTER. (a) A towing

1 company or parking facility owner who violates this chapter is  
2 liable to the owner or operator of the vehicle that is the subject  
3 of the violation for:

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

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

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

11 (c) A towing company or parking facility owner who  
12 intentionally, knowingly, or recklessly violates this chapter is  
13 liable to the owner or operator of the vehicle that is the subject  
14 of the violation for \$300 plus three times the amount of fees  
15 assessed in the vehicle's removal, towing, or storage.

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

18 Sec. 2308.405 [~~684.085~~]. VIOLATION OF CHAPTER; FINE. A  
19 violation of this chapter is a misdemeanor punishable by a fine of  
20 not less than \$500 or more than \$1,500.

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

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

27 SECTION 2.07. Sections 685.002 through 685.010,

1 Transportation Code, are transferred to Chapter 2308, Occupations  
2 Code, designated as Subchapter J, Chapter 2308, Occupations Code,  
3 renumbered as Sections 2308.451 through 2308.459, Occupations  
4 Code, and amended to read as follows:

5 SUBCHAPTER J. RIGHTS OF OWNERS AND OPERATORS OF STORED VEHICLES

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

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

- 17 (1) pay the costs of the removal and storage; or  
18 (2) reimburse the owner or operator for the cost of the  
19 removal and storage paid by the owner or operator.

20 Sec. 2308.452 [~~685.003~~]. RIGHT OF OWNER OR OPERATOR OF  
21 VEHICLE TO HEARING. The owner or operator of a vehicle that has  
22 been removed and placed in a vehicle storage facility without the  
23 consent of the owner or operator of the vehicle is entitled to a  
24 hearing on whether probable cause existed for the removal and  
25 placement.

26 Sec. 2308.453 [~~685.004~~]. JURISDICTION. A hearing under  
27 this chapter shall be in the justice court having jurisdiction in

1 the precinct in which the vehicle storage facility is located.

2 Sec. 2308.454 [~~685.005~~]. NOTICE TO VEHICLE OWNER OR  
3 OPERATOR. (a) If before a hearing held under this chapter the  
4 owner or operator of a vehicle pays the costs of the vehicle's  
5 removal or storage, the towing company or vehicle storage facility  
6 that received the payment shall at the time of payment give the  
7 owner or operator written notice of the person's rights under this  
8 chapter.

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

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

- 15 (1) a statement of:
- 16 (A) the person's right to submit a request within  
17 14 days for a court hearing to determine whether probable cause  
18 existed to remove the vehicle;
- 19 (B) the information that a request for a hearing  
20 must contain; and
- 21 (C) any filing fee for the hearing;
- 22 (2) the name, address, and telephone number of the  
23 towing company that removed the vehicle;
- 24 (3) the name, address, and telephone number of the  
25 vehicle storage facility in which the vehicle was placed;
- 26 (4) the name, address, and telephone number of the  
27 person, property owner, or law enforcement agency that authorized

1 the removal of the vehicle; and

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

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

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

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

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

15 (3) the date when the vehicle was removed;

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

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

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

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

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

27 (A) one or more photographs that show the

1 location and text of any sign posted at the facility restricting  
2 parking of vehicles; or

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

5 (c) If notice was not given under Section 2308.454  
6 [~~685.005~~], the 14-day deadline for requesting a hearing under  
7 Subsection (a) does not apply, and the owner or operator of the  
8 vehicle may deliver a written request for a hearing at any time.

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

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

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

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

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

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



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

3           (c) The issues in a hearing under this chapter are:

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

6           (2) whether a towing charge imposed or collected in  
7 connection with the removal or placement of the vehicle was greater  
8 than the amount authorized by the political subdivision under  
9 Section 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~];

10           (3) whether a towing charge imposed or collected in  
11 connection with the removal or placement of the vehicle was greater  
12 than the amount authorized under Section 2308.203 [~~643.204~~] or  
13 2308.204 [~~643.205~~]; or

14           (4) whether a towing charge imposed or collected in  
15 connection with the removal or placement of the vehicle was greater  
16 than the amount filed with the department under Section 2308.206  
17 [~~643.207~~].

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

20           (e) The court may award:

21           (1) court costs to the prevailing party;

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

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

1           (4) reimbursement of fees paid for vehicle towing and  
2 storage [~~7, Occupations Code~~].

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

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

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

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

15                           SUBCHAPTER K. ENFORCEMENT

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

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

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

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

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

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

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

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

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

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

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

19                (4) falsifies a certification or training.

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

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

25        Sec. 2308.505. CRIMINAL PENALTY; TOWING. (a) [~~d~~] A  
26 person commits an offense if the person:

27                (1) violates an ordinance, resolution, order, rule, or

1 regulation of a political subdivision adopted under Section  
2 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~], for which the political  
3 subdivision does not prescribe the penalty;

4 (2) charges or collects a fee in a political  
5 subdivision that regulates the operation of tow trucks under  
6 Section 2308.201 [~~643.201~~] or 2308.202 [~~643.203~~] that is not  
7 authorized or is greater than the authorized amount of the fee;

8 (3) charges or collects a fee greater than the amount  
9 authorized under Section 2308.204 [~~643.205~~];

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

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

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

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

18 ARTICLE 3. CONFORMING AMENDMENTS

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

21 (e) Subchapter J, Chapter 2308, Occupations Code [~~Chapter~~  
22 ~~685, Transportation Code~~], does not apply to a motor vehicle  
23 directed by a law enforcement agency to be towed and stored for an  
24 evidentiary or examination purpose.

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

27 (a) A clerk of a justice court shall collect fees and costs

1 as follows:

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

7 (2) additional filing fees:

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

10 (B) for filing any civil action or proceeding  
11 requiring a filing fee, including an appeal, and on the filing of  
12 any counterclaim, cross-action, intervention, interpleader, or  
13 third-party action requiring a filing fee, to fund civil legal  
14 services for the indigent (Sec. 133.153, Local Government Code)  
15 . . . \$2;

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

18 (4) fee for hearing on probable cause for removal of a  
19 vehicle and placement in a storage facility if assessed by the court  
20 (Sec. 2308.457, Occupations Code [~~685.008, Transportation Code~~])  
21 . . . \$20;

22 (5) court fees and costs, if ordered by the court, for  
23 a suit filed by an inmate in which an affidavit or unsworn  
24 declaration of inability to pay costs is filed by the inmate (Sec.  
25 14.006, Civil Practice and Remedies Code) . . . the lesser of:

26 (A) 20 percent of the preceding six months'  
27 deposits to the inmate's trust account administered by the Texas

1 Department of Criminal Justice under Section 501.014, Government  
2 Code; or

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

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

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

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

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

18 (A) expenses of service of process;

19 (B) postage; and

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

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

27 SECTION 3.03. Section 101.161, Government Code, is amended

1 to read as follows:

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

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

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

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

14           (f) The operator of a vehicle storage facility or  
15 governmental vehicle storage facility may not charge an additional  
16 fee related to the storage of a vehicle other than a fee authorized  
17 by this section or a towing fee authorized by Chapter 2308 [~~Chapter~~  
18 ~~643, Transportation Code~~].

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

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

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

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

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

5           (2) a motor vehicle registered as a cotton vehicle  
6 under Section 502.277;

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

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

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

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

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

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

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

27           SECTION 3.08. Section 643.053, Transportation Code, is



1 amended to read as follows:

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

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

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

10           (3) any insurance filing fee required under Section  
11 643.103(c).

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

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

20           (d) The department may not collect more than \$10 in  
21 equipment registration fees for a vehicle [~~other than a tow truck~~]  
22 registered under both this subchapter and Chapter 645 [~~or more than~~  
23 ~~\$25 if the vehicle is a tow truck~~].

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

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

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

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

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

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

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

13           (1) a \$20 fee for each vehicle registered [~~other than a~~  
14 ~~tow truck or a fee of \$50 for each tow truck~~] under Subsection  
15 (a)(1);

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

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

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

23           (e) An offense under Subsection (b) [~~or (d)~~] is a  
24 misdemeanor punishable by a fine of not less than \$200 or more than  
25 \$1,000 per violation.

26           SECTION 3.13. Section 1(1), Chapter 528, Acts of the 76th  
27 Legislature, Regular Session, 1999 (Article 178d-1, Vernon's Texas

1 Civil Statutes), is amended to read as follows:

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

5 ARTICLE 4. MISCELLANEOUS

6 SECTION 4.01. Section 683.012, Transportation Code, is  
7 amended by adding Subsection (f) to read as follows:

8 (f) In addition to the notice required under Subsection (a),  
9 if a law enforcement agency takes an abandoned motor vehicle into  
10 custody, the agency shall notify a person that files a theft report  
11 or similar report prepared by any law enforcement agency for the  
12 vehicle of that fact. The notice must be sent by regular mail on the  
13 next business day after the agency takes the vehicle into custody.  
14 The law enforcement agency shall also provide the name and address  
15 of the person that filed the theft report or similar report to the  
16 vehicle storage facility or governmental vehicle storage facility  
17 that is storing the vehicle.

18 ARTICLE 5. TRANSITION AND EFFECTIVE DATE

19 SECTION 5.01. (a) The following provisions of the  
20 Transportation Code are repealed:

- 21 (1) Section 643.001(7);  
22 (2) Section 643.101(d);  
23 (3) Section 643.202;  
24 (4) Section 684.001;  
25 (5) Section 685.001;  
26 (6) the heading to Subchapter E, Chapter 643;  
27 (7) the heading to Chapter 684;

1           (8) the headings to Subchapters A, B, and F, Chapter  
2 684; and

3           (9) the heading to Chapter 685.

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

6           SECTION 5.02. As soon as practicable after the effective  
7 date of this Act, the presiding officer of the Texas Commission of  
8 Licensing and Regulation shall make the initial appointments to the  
9 Towing and Storage Advisory Board. The presiding officer shall  
10 appoint two members to terms expiring February 1, 2009, three  
11 members to terms expiring February 1, 2011, and three members to  
12 terms expiring February 1, 2013.

13           SECTION 5.03. (a) As soon as practicable after the  
14 effective date of this Act, the Texas Department of Transportation  
15 and the Texas Department of Licensing and Regulation shall develop  
16 and enter into a memorandum of understanding regarding the transfer  
17 described in this section that includes a transition plan for  
18 transferring the functions performed by the Texas Transportation  
19 Commission and the Texas Department of Transportation that relate  
20 to tow trucks, towing operations, or vehicle storage facilities to  
21 the Texas Department of Licensing and Regulation. The transition  
22 plan must include a timetable with specific steps and deadlines  
23 needed to complete the transfer, and may include provisions for the  
24 extension of expiration dates for licenses.

25           (b) In accordance with the transition plan developed by the  
26 Texas Department of Transportation and the Texas Department of  
27 Licensing and Regulation under Subsection (a) of this section, on

1 January 1, 2008:

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

7 (2) a rule or form adopted by the Texas Transportation  
8 Commission and the Texas Department of Transportation that relates  
9 to tow trucks, towing operations, or vehicle storage facilities is  
10 a rule or form of the Texas Commission of Licensing and Regulation  
11 or the Texas Department of Licensing and Regulation, as applicable,  
12 and remains in effect until amended or replaced by that commission  
13 or department;

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

20 (4) a complaint, investigation, or other proceeding  
21 before the Texas Transportation Commission or the Texas Department  
22 of Transportation that is related to tow trucks, towing operations,  
23 or vehicle storage facilities is transferred without change in  
24 status to the Texas Department of Licensing and Regulation, and the  
25 Texas Department of Licensing and Regulation assumes, as  
26 appropriate and without a change in status, the position of the  
27 Texas Transportation Commission and the Texas Department of

1 Transportation in an action or proceeding to which the Texas  
2 Transportation Commission or the Texas Department of  
3 Transportation is a party;

4 (5) all full-time equivalent employee positions at the  
5 Texas Department of Transportation that primarily concern the  
6 administration of tow trucks, towing operations, or vehicle storage  
7 facilities become positions at the Texas Department of Licensing  
8 and Regulation, and when filling the positions, the Texas  
9 Department of Licensing and Regulation shall give first  
10 consideration to an applicant who, as of December 31, 2007, was a  
11 full-time employee at the Texas Department of Transportation  
12 primarily involved in administering tow trucks, towing operations,  
13 or vehicle storage facilities;

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

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

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

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

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

15           SECTION 5.04. Not later than April 1, 2008, the Texas  
16 Commission of Licensing and Regulation shall adopt rules relating  
17 to an original application for a permit or license under Chapter  
18 2303, Occupations Code, as amended by this Act, and Chapter 2308,  
19 Occupations Code, as added by this Act.

20           SECTION 5.05. (a) Except as provided by Subsection (b) of  
21 this section, this Act takes effect September 1, 2007.

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

David Newkum

President of the Senate

Jim Caddick

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.

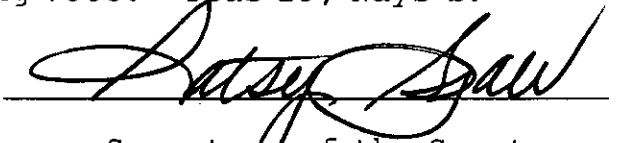
Robert Haney

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: 15 JUN 07

Date

  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
7 PM O'CLOCK

JUN 15 2007  
  
Secretary of State