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# Texas Towing Law

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**Date :** February 1, 2014

**VEHICLE TOWING AND BOOTING Occupations Code Title 14. Regulation of Motor Vehicles and Transportation Chapter 2308 Administered by the Texas Department of Licensing and Regulation** *(Effective September 1, 2013, except where noted)*

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Subchapter A. General Provisions

### **Sec. 2308.001. Short Title.**

This chapter may be cited as the Texas Towing and Booting Act.

### **Sec. 2308.002. Definitions.**

In this chapter:

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(1) “**Advisory board**” means the Towing, Storage, and Booting Advisory Board.

(1-a) “**Boot**” means a lockable road wheel clamp or similar vehicle immobilization device that is designed to immobilize a parked vehicle and prevent its movement until the device is unlocked or removed.

(1-b) “**Booting company**” means a person that controls, installs, or directs the installation and removal of one or more boots.

(1-c) “**Boot operator**” means an individual who installs or removes a boot on or from a vehicle.

(2) “**Commission**” means the Texas Commission of Licensing and Regulation.

(3) “**Consent tow**” means any tow of a motor vehicle in which the tow truck is summoned by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include an incident management tow or a private property tow.

(4) “**Department**” means the Texas Department of Licensing and Regulation.

(5) “**Driver’s license**” has the meaning assigned by Section 521.001, Transportation Code.

(5-a) “**Incident management tow**” means any tow of a vehicle in which the tow truck is summoned to the scene of a traffic accident or to an incident, including the removal of a vehicle, commercial cargo, and commercial debris from an accident or incident scene.

(6) “**Nonconsent tow**” means any tow of a motor vehicle that is not a consent tow, including:

(A) an incident management tow; and

(B) a private property tow.

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

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

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

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

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

(7-a) “**Parking facility authorized agent**” means an employee or agent of a parking facility owner with the authority to:

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

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

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(8) **“Parking facility owner”** means:

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

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

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

(8-a) **“Private property tow”** means any tow of a vehicle authorized by a parking facility owner without the consent of the owner or operator of the vehicle.

(9) **“Property owners’ association”** has the meaning assigned by Section 202.001, Property Code.

(10) **“Public roadway”** means a public street, alley, road, right-of-way, or other public way, including paved and unpaved portions of the right-of-way.

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

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

(B) a motor vehicle towing:

(i) a race car;

(ii) a motor vehicle for exhibition; or

(iii) an antique motor vehicle;

(C) a recreational vehicle towing another vehicle;

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

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

(F) a motor vehicle that:

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

(ii) only tows vehicles rented by the entity.

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

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

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

(15) **“Vehicle owner”** means a person:

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

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

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

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

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

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

## **Sec. 2308.004. Exemption.**

(a) This chapter does not apply to a person who, while exercising a statutory or contractual lien right with regard to a vehicle:

(1) installs or removes a boot; or

(2) controls, installs, or directs the installation and removal of one or more boots.

(b) This chapter does not apply to a commercial office building owner or manager who installs or removes a boot in the building’s parking facility.

## **Subchapter B. Advisory Board**

### **Sec. 2308.051. Towing, Storage, and Booting Advisory Board**

(a) The advisory board consists of the following members appointed by the presiding officer of the commission with the approval of the commission:

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

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

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

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

(5) one parking facility owner;

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

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

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

(9) one public member. (*Amended pursuant to HB 2548, 81<sup>st</sup> Leg., R.S., (2009)*)

(9) one representative of a booting company. (*Amended pursuant to SB 2153, 81<sup>st</sup> Leg., R.S., (2009)*)

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

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

### **Sec. 2308.052. Terms; Vacancies**

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

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

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

### **Sec. 2308.053. Presiding Officer.**

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

### **Sec. 2308.054. Compensation; Reimbursement of Expenses.**

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

### **Sec. 2308.055. Meetings.**

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

### **Sec. 2308.056. General Powers and Duties.**

The executive director or commission, as appropriate, may take action as necessary to administer and enforce this chapter.

### **Sec. 2308.057. Rules.**

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(a) The commission shall adopt rules for permitting tow trucks and licensing towing operators, towing companies, booting companies, and boot operators. The commission may adopt different rules applicable to each type of permit or license.

(a-1) The commission shall adopt rules for denial of applications and permits if the applicant, a partner, principal, officer, or general manager of the applicant, or other license or permit holder has:

(1) a criminal conviction, or has pleaded guilty or nolo contendere to an offense, before the date of the application, for:

(A) a felony, or

(B) a misdemeanor punishable by confinement in jail or by a fine in an amount that exceeds \$500;

(2) violated an order of the commission or executive director, including an order for sanctions or administrative penalties;

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

(4) knowingly submitted false or incomplete information on the application; or

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

(b) The commission by rule shall adopt:

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

(2) requirements for a consent tow, private property tow, and incident management tow.

## **Sec. 2308.0575. Rules on Fees; Contract for Study; Confidential Information.**

(a) To protect the public health and safety, the commission by rule shall establish:

(1) the fees that may be charged in connection with a private property tow;

(2) the maximum amount that may be charged for fees, other than tow fees, that may be assessed by a towing company in connection with a private property tow; and

(3) a maximum amount that may be charged for the following private property tows:

(A) standard light-duty tows of motor vehicles with a gross weight rating of 10,000 pounds or less;

(B) medium-duty tows of motor vehicles with a gross weight rating of more than 10,000 pounds, but less than 25,000 pounds; and

(C) heavy-duty tows of motor vehicles with a gross weight rating that exceeds 25,000 pounds.

(b) In adopting rules under Subsection (a), the commission shall contract for a study that:

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

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

(c) The commission may structure the maximum amounts that may be charged for private property tows based on hourly or flat fees or by geographic location.

(d) The commission shall maintain the confidentiality of information contained in a study conducted under this section that is claimed to be confidential for competitive purposes and may not release information that identifies a person or company. The confidential information is exempt from disclosure under Chapter 552, Government Code.

(e) To protect the confidentiality of the information, the commission shall aggregate the information to the maximum extent possible considering the purpose of the study.

(f) The department shall contract to conduct a study on private property towing fees under this section at least once every two years.

### **Sec. 2308.058. Fees.**

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

### **Sec. 2308.059. Periodic and Risk-Based Inspections.**

(a) The department may enter and inspect at any time during business hours:

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

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

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

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

(2) the inspection history;

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

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

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

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

### **Sec. 2308.060. Powers and Duties of Advisory Board.**

The advisory board shall provide advice and recommendations to the department on technical matters relevant

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to the administration and enforcement of this chapter, including examination content, licensing standards, continuing education requirements, and maximum amounts that may be charged for fees related to private property tows.

## **Sec. 2308.061. Personnel.**

The department may employ personnel necessary to administer and enforce this chapter

## **Subchapter C. Tow Truck Permit Requirements**

### **Sec. 2308.101. Permit Required.**

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

### **Sec. 2308.102. Application Requirements.**

(a) An applicant for a permit under this subchapter must submit to the department:

- (1) a completed application on a form prescribed by the executive director;
- (2) evidence of insurance or financial responsibility required under this subchapter;
- (3) the required fees; and
- (4) any other information required by the executive director.

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

### **Sec. 2308.103. Requirements for Incident Management Towing Permit.**

(a) An incident management towing permit is required for a tow truck used to perform any nonconsent tow initiated by a peace officer, including a tow authorized under Section 545.3051, Transportation Code.

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

- (1) the tow truck is equipped to tow light-duty or heavy-duty vehicles according to the manufacturer's towing guidelines;
- (2) the applicant has at least \$500,000 of liability insurance for the tow truck; and
- (3) the applicant has at least \$50,000 of cargo insurance for the tow truck.

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

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

### **Sec. 2308.104. Requirements for Private Property Towing Permit.**

(a) A private property towing permit is required for a tow truck used to perform a nonconsent tow authorized by a parking facility owner under this chapter.

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

- (1) the tow truck is equipped to tow light-duty or heavy-duty vehicles according to the manufacturer's towing guidelines;
- (2) the applicant has at least \$300,000 of liability insurance for the tow truck; and
- (3) the applicant has at least \$50,000 of cargo insurance for the tow truck.

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

### **Sec. 2308.105. Requirements for Consent Towing Permit.**

(a) A consent towing permit is required for a tow truck used to perform a consent tow authorized by the vehicle owner.

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

- (1) the tow truck is equipped to tow light-duty or heavy-duty vehicles according to the manufacturer's towing guidelines; and
- (2) the applicant has at least \$300,000 of liability insurance for the tow truck.

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

### **Sec. 2308.106. Department Approval; Issuance of Permit.**

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

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

### **Sec. 2308.107. Permit Renewal.**

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

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

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

- (1) paying a fee for each tow truck; and
- (2) providing to the department evidence of continuing insurance or financial responsibility in an amount required by this chapter.

### **Sec. 2308.108. Cab Cards.**

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

- (1) show the permit number of the certificate issued under Section 2308.106(b);
- (2) show the type of permit issued;
- (3) show the vehicle unit number;
- (4) show the vehicle identification number; and
- (5) contain a statement that the vehicle has been issued a permit under this subchapter.

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

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

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

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

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

## **Sec. 2308.109. Display of Information on Tow Truck.**

(a) A permit holder shall display on each permitted tow truck:

- (1) the permit holder's name;
- (2) the permit holder's telephone number;
- (3) the city and state where the permit holder is located; and
- (4) the permit number for the tow truck.

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

- (1) printed in letters and numbers that are at least two inches high and in a color that contrasts with the color of the background surface; and
- (2) permanently affixed in conspicuous places on both sides of the tow truck.

## **Sec. 2308.110. Financial Responsibility.**

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

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

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

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

## **Subchapter D. License Requirements**

### **Sec. 2308.151. License Required.**

Unless the person holds an appropriate license under this subchapter, a person may not:

- (1) perform towing operations;
- (2) operate a towing company;
- (3) perform booting operations; or
- (4) operate a booting company.

### **Sec. 2308.152. General License Application Requirements.**

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

- (1) a completed application on a form prescribed by the executive director;
- (2) the required fees; and
- (3) any other information required by commission rule.

### **Sec. 2308.1521. Vehicle Storage Facility Employee and Towing Operator; Dual License.**

(a) The commission shall adopt rules for the issuance of a dual license for a person who is a vehicle storage facility employee and towing operator. The department shall issue the license to an applicant who:

- (1) meets the requirements established under:
  - (A) Section 2308.153, 2308.154, or 2308.155;
  - (B) Section 2303.1015; and
  - (C) any applicable rules adopted under this subchapter or Subchapter C, Chapter 2303; and
- (2) submits to the department:
  - (A) an application on a department-approved form; and
  - (B) the required license fee.

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

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(1) work at a vehicle storage facility; and

(2) perform towing operations.

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

(1) less than the fee for a license issued under this subchapter or Section 2303.1015; or

(2) more than the sum of the fees for a license issued under this subchapter and a license issued under Section 2303.1015.

### **Sec. 2308.153. Incident Management Towing Operator's License.**

(a) An incident management towing operator's license is required to operate a tow truck permitted under Section 2308.103.

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

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

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

### **Sec. 2308.154. Private Property Towing Operator's License.**

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

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

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

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

### **Sec. 2308.155. Consent Towing Operator's License.**

(a) A consent towing operator's license is required to operate a tow truck permitted under Section 2308.105.

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

### **Sec. 2308.1551. Training License.**

(a) The department may issue a training license to an applicant for a license under this subchapter if the applicant:

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

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

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

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

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

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

### **Sec. 2308.1555. Boot Operator's License.**

(a) A boot operator's license is required to install or remove a boot from a vehicle.

(b) An applicant for a boot operator's license must be at least 18 years of age.

### **Sec. 2308.1556. Booting Company License.**

(a) A booting company license is required for a person to operate a booting company.

(b) To be eligible for a booting company license, an applicant must submit evidence that the applicant is covered by:

(1) a general liability insurance policy on a broad form with:

(A) a combined single limit for bodily injury and property damage for each occurrence of at least \$500,000; and

(B) an aggregate limit for all occurrences for each policy year of at least \$500,000; and

(2) an automobile liability insurance policy covering the applicant and the applicant's employees for vehicles owned, hired, or otherwise used in the applicant's business, with a combined single limit for each occurrence of at least \$500,000.

### **Sec. 2308.156. Nontransferability of License.**

A license issued by the executive director is valid throughout this state and is not transferable.

### **Sec. 2308.157. Continuing Education.**

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

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

(1) register with the department; and

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

(c) To renew an incident management towing operator's license the first time, a license holder must complete a professional development course relating to incident management towing that is approved and administered by the department under this section.

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## **Sec. 2308.158. Alcohol and Drug Testing of Towing Operators.**

(a) A towing company shall establish an alcohol and drug testing policy for towing operators. A towing company that establishes an alcohol and drug testing policy under this subsection may adopt the model alcohol and drug testing policy adopted by the commission or may use another alcohol and drug testing policy that the department determines is at least as stringent as the policy adopted by the commission.

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

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

## **Sec. 2308.159. License Renewal.**

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

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

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

- (1) submitting an application on a form prescribed by the executive director;
- (2) submitting evidence demonstrating compliance with the requirements for the license type as required by this chapter or commission rule;
- (3) paying a renewal fee; and
- (4) completing continuing education as required by Section 2308.157.

## **Subchapter E. Local Regulation of Towing and Booting**

### **Sec. 2308.201. Tow Truck Regulation by Political Subdivisions.**

(a) 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.

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

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

(d) A political subdivision may not require a person who holds a driver's license or commercial driver's license to obtain a license or permit for operating a tow truck unless the person performs nonconsent tows in the territory of the political subdivision. A fee charged for a license or permit may not exceed \$15.

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## **Sec. 2308.202. Regulation by Political Subdivisions of Fees for Nonconsent Tows.**

The governing body of a political subdivision may regulate the fees that may be charged or collected in connection with a nonconsent tow originating in the territory of the political subdivision if the private property tow fees:

- (1) are authorized by commission rule; and
- (2) do not exceed the maximum amount authorized by commission rule.

## **Sec. 2308.203. Towing Fee Studies.**

- (a) The governing body of a political subdivision that regulates nonconsent tow fees shall establish procedures by which a towing company may request that a towing fee study be performed.
- (b) The governing body of the political subdivision shall establish or amend the allowable fees for nonconsent tows at amounts that represent the fair value of the services of a towing company and are reasonably related to any financial or accounting information provided to the governing body.

## **Sec. 2308.205. Storage of Towed Vehicles.**

- (a) A towing company that makes a nonconsent tow shall tow the vehicle to a vehicle storage facility that is operated by a person who holds a license to operate the facility under Chapter 2303, unless the towing company agrees to take the vehicle to a location designated by the vehicle's owner.
- (b) A storage or notification fee imposed in connection with a motor vehicle towed to a vehicle storage facility is governed by Chapter 2303.
- (c) Except as provided by this chapter, Article 18.23, Code of Criminal Procedure, or Chapter 2303, a fee may not be charged or collected without the prior written consent of the vehicle owner or operator.

## **Sec. 2308.2065. Fees for Nonconsent Tows; Refunds.**

- (a) A license or permit holder may not charge a fee for a nonconsent tow that is greater than:
  - (1) the fee for a nonconsent tow established under Section 2308.0575; or
  - (2) a fee for a nonconsent tow authorized by a political subdivision.
- (b) A license or permit holder may not charge a fee for a service related to a nonconsent tow that is not included in the list of fees established:
  - (1) under Section 2308.0575; or
  - (2) by a political subdivision.
- (c) The department may require a license or permit holder to refund to a vehicle owner or operator the:
  - (1) amount charged to the owner or operator in excess of the amounts established by commission rule or by a political subdivision; or
  - (2) total amount of the charges for a service not listed in the amounts established by commission rule or by a political subdivision.

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## **Sec. 2308.208. Municipal or County Ordinance Regulating Unauthorized Vehicles and Towing of Motor Vehicles.**

The governing body of a municipality or the commissioners court of a county may adopt an ordinance that is identical to this chapter or that imposes additional requirements that exceed the minimum standards of this chapter but may not adopt an ordinance conflicting with this chapter.

## **Sec. 2308.2085. Municipal Ordinance Regulating Booting Companies and Operators.**

(a) A municipality may adopt an ordinance that is identical to the booting provisions in this chapter or that imposes additional requirements that exceed the minimum standards of the booting provisions in this chapter but may not adopt an ordinance that conflicts with the booting provisions in this chapter.

(b) A municipality may require the fees that may be charged in connection with the booting of a vehicle, including associated parking fees.

(c) A municipality may require booting companies to obtain a permit to operate in the municipality.

## **Sec. 2308.209. Tow Rotation List in Certain Counties.**

(b) This section applies only to the unincorporated area of a county:

- (1) with a population of 300,000 or more that is adjacent to a county with a population of 2.3 million or more;
- (2) with a population of less than 10,000 that is located in a national forest; and
- (3) adjacent to a county described by Subdivision (2) that has a population of less than 75,000.

(c) The sheriff's office may maintain a list of towing companies to perform nonconsent tows of motor vehicles initiated by a peace officer investigating a traffic accident or a traffic incident. The towing companies must operate in a county to which this section applies.

(d) A peace officer initiating a nonconsent tow of a motor vehicle involved in a traffic accident or traffic incident that the officer is investigating shall notify the sheriff's office that the tow is being initiated. The sheriff's office shall contact successive towing companies on the tow rotation list until a company agrees to carry out the tow.

(e) The sheriff's office may assess a towing company an administrative fee to be included on the tow rotation list in an amount not to exceed the amount necessary to implement this section.

(f) The commissioners court of a county in which a list is maintained under Subsection (c) shall adopt policies to implement this section in a manner that ensures:

- (1) equal distribution of nonconsent tows among the towing companies that perform nonconsent tows in the county; and
- (2) consumer protection, including fair pricing, for owners or operators of motor vehicles towed by towing companies on the tow rotation list.

(g) The sheriff's office shall make a list maintained under this section available for public inspection.

(h) In a county in which a list is maintained under Subsection (c), a person commits an offense if:

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(1) the person arrives at the scene of a traffic accident or traffic incident to perform a nonconsent tow of a motor vehicle without first being contacted by the sheriff's office;

(2) the person directly or indirectly solicits, on streets located in the county, towing services, including towing, removing, repairing, wrecking, storing, trading, selling, or purchasing related to a vehicle that has been damaged in an accident to the extent that it cannot be normally and safely driven; or

(3) the person enters the scene of a traffic accident, traffic incident, or other area under the control of a peace officer without the permission of the peace officer.

(i) An offense under Subsection (h) is a misdemeanor punishable by a fine of not less than \$1 or more than \$200.

## **Subchapter F. Unauthorized Vehicles**

### **Sec. 2308.251. Prohibition Against Unattended Vehicles in Certain Areas.**

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

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

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

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

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

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

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

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

### **Sec. 2308.252. Removal and Storage of Unauthorized Vehicle.**

(a) A parking facility owner may, without the consent of the owner or operator of an unauthorized vehicle, cause the vehicle and any property on or in the vehicle to be removed and stored at a vehicle storage facility at the vehicle owner's or operator's expense if:

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

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

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

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(4) on request the parking facility owner provides to the owner or operator of the vehicle information on the name of the towing company and vehicle storage facility that will be used to remove and store the vehicle and the vehicle is:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Sec. 2308.253. Unattended Vehicles on Parking Facility of Apartment Complex; Removal and Storage of Vehicles.**

(a) This section applies only to a parking facility serving or adjacent to an apartment complex consisting of one or

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more residential apartment units and any adjacent real property serving the apartment complex.

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

- (1) obstructs a gate that is designed or intended for the use of pedestrians or vehicles;
- (2) obstructs pedestrian or vehicular access to an area that is used for the placement of a garbage or refuse receptacle used in common by residents of the apartment complex;
- (3) is in or obstructs a restricted parking area or parking space designated under Subchapter G, including a space designated for the use of employees or maintenance personnel of the parking facility or apartment complex;
- (4) is in a tow away zone, other than a fire lane covered by Section 2308.251(c), that is brightly painted and is conspicuously and legibly marked with the warning "TOW AWAY ZONE" in contrasting letters at least three inches tall;
- (5) is a semitrailer, trailer, or truck-tractor, as defined by Chapter 502, Transportation Code, unless the owner or operator of the vehicle is permitted under the terms of a rental or lease agreement with the apartment complex to leave the unattended vehicle on the parking facility; or
- (6) is leaking a fluid that presents a hazard or threat to persons or property.

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

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

- (1) an unexpired license plate or registration insignia issued for the vehicle under Chapter 502, Transportation Code, or the vehicle registration law of another state or country; or
- (2) a valid vehicle inspection certificate issued under Chapter 548, Transportation Code, or the vehicle inspection law of another state or country.

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

- (1) delivered in person to the owner or operator of the vehicle; or
- (2) sent by certified mail, return receipt requested, to that owner or operator.

(f) This section may not be construed:

- (1) to authorize the owner or operator of a vehicle to leave an unattended vehicle on property that is not designed or intended for the parking of vehicles; or
- (2) to limit or restrict the enforcement of Chapter 683, Transportation Code, the abandoned motor vehicle law.

(g) A provision of an apartment lease or rental agreement entered into or renewed on or after January 1, 2004,

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that is in conflict or inconsistent with this section is void and may not be enforced.

### **Sec. 2308.254. Limitation on Parking Facility Owner's Authority to Remove Unauthorized Vehicle.**

A parking facility owner may not have an unauthorized vehicle removed from the facility except:

- (1) as provided by this chapter or a municipal ordinance that complies with Section 2308.208; or
- (2) under the direction of a peace officer or the owner or operator of the vehicle.

### **Sec. 2308.255. Towing Company's or Boot Operator's Authority to Remove and Store or Boot Unauthorized Vehicle.**

(a) A towing company that is insured as provided by Subsection (c) may, without the consent of an owner or operator of an unauthorized vehicle, remove and store the vehicle at a vehicle storage facility at the expense of the owner or operator of the vehicle if:

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

- (A) the parking facility owner has installed the signs required by Section 2308.252(a)(1); or
- (B) the owner or operator received notice under Section 2308.252(a)(2) or the parking facility owner gave notice complying with Section 2308.252(a)(3); or

(2) on request the parking facility owner provides to the owner or operator of the vehicle information on the name of the towing company and vehicle storage facility that will be used to remove and store the vehicle and the vehicle is:

- (A) left in violation of Section 2308.251;
- (B) in or obstructing a portion of a paved driveway; or
- (C) on a public roadway used for entering or exiting the facility and the removal is approved by a peace officer.

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

- (1) this chapter;
- (2) a municipal ordinance that complies with Section 2308.208; or
- (3) the direction of a peace officer or the owner or operator of the vehicle.

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

(d) A towing company may remove and store a vehicle under Subsection (a) and a boot operator may boot a vehicle under Section 2308.257 only if the parking facility owner:

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

(2) has a standing written agreement with the towing company or boot operator to enforce parking restrictions in the parking facility.

### **Sec. 2308.2555. Removal of Certain Unauthorized Vehicles in Rural Areas.**

(a) This section applies only to an abandoned vehicle that has damaged a fence on private property in a rural area.

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

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

### **Sec. 2308.2565. Vehicle Storage Facility Duty to Report After Accepting Unauthorized Vehicle.**

(a) Except for an incident management tow requested by a law enforcement agency, a vehicle storage facility accepting a vehicle that is towed under this chapter shall within two hours after receiving the vehicle report to the police department of the municipality from which the vehicle was towed or, if the vehicle was towed from a location that is not in a municipality with a police department, to the sheriff of the county from which the vehicle was towed:

(1) a general description of the vehicle;

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

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

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

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

(b) A law enforcement agency may request a vehicle storage facility to provide a report, in a manner prescribed by the law enforcement agency, of incident management tows within the jurisdiction of the agency. A vehicle storage facility must provide the report not later than 48 hours after the time the facility receives the request.

### **Sec. 2308.257. Booting of Unauthorized Vehicle.**

(a) A parking facility owner may, without the consent of the owner or operator of an unauthorized vehicle, cause a boot to be installed on the vehicle in the parking facility if signs that comply with Subchapter G prohibiting unauthorized vehicles are located on the parking facility at the time of the booting and for the preceding 24 hours and remain installed at the time of the booting.

(b) A boot operator that installs a boot on a vehicle must affix a conspicuous notice to the vehicle's front windshield or driver's side window stating:

(1) that the vehicle has been booted and damage may occur if the vehicle is moved;

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- (2) the date and time the boot was installed;
  - (3) the name, address, and telephone number of the booting company;
  - (4) a telephone number that is answered 24 hours a day to enable the owner or operator of the vehicle to arrange for removal of the boot;
  - (5) the amount of the fee for removal of the boot and any associated parking fees; and
  - (6) notice of the right of a vehicle owner or vehicle operator to a hearing under Subchapter J.

(c) On removal of a boot, the boot operator shall provide a receipt to the vehicle owner or operator stating:

- (1) the name of the person who removed the boot;
- (2) the date and time the boot was removed;
- (3) the name of the person to whom the vehicle was released;
- (4) the amount of fees paid for removal of the boot and any associated parking fees; and
- (5) the right of the vehicle owner or operator to a hearing under Subchapter J.

(d) The booting company shall maintain a copy of the receipt at its place of business for a period of three years. A peace officer has the right, on request, to inspect and copy the records to determine compliance with the requirements of this section.

(e) A booting company shall accept payment by an electronic check, debit card, or credit card for any fee or charge associated with the removal of a boot. A booting company may not collect a fee for any charge associated with the removal of a boot from a person who offers to pay the charge with an electronic check, debit card, or credit card form of payment that the booting company is not equipped to accept.

## **Subchapter G. Signs Prohibiting Unauthorized Vehicles and Designating Restricted Areas**

### **Sec. 2308.301. General Requirements for Sign Prohibiting Unauthorized Vehicles.**

(a) Except as provided by Subsection (a)(2)(B) and Section 2308.304 or 2308.305, an unauthorized vehicle may not be towed under Section 2308.252(a)(1) or booted under Section 2308.257 unless a sign prohibiting unauthorized vehicles on a parking facility is:

- (1) facing and conspicuously visible to the driver of a vehicle that enters the facility;
- (2) located:
  - (A) on the right or left side of each driveway or curb-cut through which a vehicle can enter the facility, including an entry from an alley abutting the facility; or
  - (B) at intervals along the entrance so that no entrance is farther than 25 feet from a sign if:
    - (i) curbs, access barriers, landscaping, or driveways do not establish definite vehicle entrances onto a parking facility from a public roadway other than an alley; and
    - (ii) the width of an entrance exceeds 35 feet;

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- (3) permanently mounted on a pole, post, permanent wall, or permanent barrier;
  - (4) installed on the parking facility; and
  - (5) installed so that the bottom edge of the sign is no lower than five feet and no higher than eight feet above ground level.

(b) Except as provided by Section 2308.305, an unauthorized vehicle may be towed under Section 2308.252(a)(1) or booted under Section 2308.257 only if each sign prohibiting unauthorized vehicles:

- (1) is made of weather-resistant material;
- (2) is at least 18 inches wide and 24 inches tall;
- (3) contains the international symbol for towing vehicles;
- (4) contains a statement describing who may park in the parking facility and prohibiting all others;
- (5) bears the words, as applicable:
  - (A) "Unauthorized Vehicles Will Be Towed or Booted at Owner's or Operator's Expense";
  - (B) "Unauthorized Vehicles Will Be Towed at Owner's or Operator's Expense"; or
  - (C) "Unauthorized Vehicles Will Be Booted at Owner's or Operator's Expense";
- (6) contains a statement of the days and hours of towing and booting enforcement; and
- (7) contains a number, including the area code, of a telephone that is answered 24 hours a day to enable an owner or operator of a vehicle to locate a towed vehicle or to arrange for removal of a boot from a vehicle.

## **Sec. 2308.302. Color, Layout, and Lettering Height Requirements.**

(a) Except as provided by Section 2308.305, each sign required by this chapter must comply with the color, layout, and lettering height requirements of this section.

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

(c) The portion of the sign immediately below the international towing symbol must:

- (1) in lettering at least two inches in height, contain the words, as applicable:
  - (A) "Towing and Booting Enforced";
  - (B) "Towing Enforced"; or
  - (C) "Booting Enforced"; and

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(2) consist of white letters on a bright red background.

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

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

### **Sec. 2308.303. Telephone Number for Locating Towed Vehicle Required.**

If a parking facility owner posts a sign described by Sections 2308.301 and 2308.302, the owner of a vehicle that is towed from the facility under this chapter must be able to locate the vehicle by calling the telephone number on the sign.

### **Sec. 2308.304. Designation of Restricted Parking Spaces on Otherwise Unrestricted Parking Facility.**

A parking facility owner may designate one or more spaces as restricted parking spaces on a portion of an otherwise unrestricted parking facility. Instead of installing a sign at each entrance to the parking facility as provided by Section 2308.301(a)(2), an owner may place a sign that prohibits unauthorized vehicles from parking in designated spaces and that otherwise complies with Sections 2308.301 and 2308.302:

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

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

### **Sec. 2308.305. Individual Parking Restrictions in Restricted Area.**

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

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

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

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

## **Subchapter H. Regulation of Parking on Certain Public Roadway Areas**

### **Sec. 2308.351. Removal of Unauthorized Vehicle from Leased Right-Of-Way.**

Unless prohibited by the lease, a parking facility owner or towing company may remove an unauthorized vehicle parked in a leased area described by Section 2308.002(7)(B)(i) if the owner or towing company gives notice under Section 2308.252(a)(1), (2), or (3) and otherwise complies with this chapter.

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## **Sec. 2308.352. Removal of Unauthorized Vehicle from Area Between Parking Facility and Public Roadway.**

Unless prohibited by a municipal ordinance, a parking facility owner or towing company may remove an unauthorized vehicle any part of which is in an area described by Section 2308.002(7)(B)(ii) if notice provided by Section 2308.252(a)(2) or (3) is given and the owner or towing company has otherwise complied with this chapter.

## **Sec. 2308.353. Removal Under Governmental Entity's Authority of Unauthorized Vehicle Parked in Right-Of-Way.**

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

- (1) remove or contract with a towing company to remove an unauthorized vehicle parked in the right-of-way of the public roadway; or
- (2) grant written permission to an abutting parking facility owner to:
  - (A) post one or more "No parking in R.O.W." signs along a common property line of the facility and the roadway; and
  - (B) remove vehicles from the right-of-way of the public roadway under this chapter.

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

- (1) state that a vehicle parked in the right-of-way may be towed at the expense of the owner or operator of the vehicle;
- (2) be placed facing the public roadway:
  - (A) on the parking facility owner's property not more than two feet from the common boundary line; and
  - (B) at intervals so that no point in the boundary line is less than 25 feet from a sign posted under this subsection; and
- (3) in all other respects comply with Subchapter G.

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

## **Sec. 2308.354. Authority for Removal of Vehicle from Public Roadway.**

(a) Under an ordinance of a municipality regulating the parking of vehicles in the municipality, to aid in the enforcement of the ordinance, an employee designated by the municipality may be authorized to:

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

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

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

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

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

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

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

## **Subchapter I. Regulation of Towing Companies, Booting Companies, and Parking Facility Owners**

### **Sec. 2308.401. Parking Facility Owner Prohibited from Receiving Financial Gain from Towing Company or Booting Company.**

(a) A parking facility owner may not directly or indirectly accept anything of value from:

(1) a towing company in connection with the removal of a vehicle from a parking facility; or

(2) a booting company in connection with booting a vehicle in a parking facility.

(b) A parking facility owner may not have a direct or indirect monetary interest in:

(1) a towing company that for compensation removes unauthorized vehicles from a parking facility in which the parking facility owner has an interest; or

(2) a booting company that for compensation boots vehicles in a parking facility in which the parking facility owner has an interest.

(c) This section does not apply to a sign required under Section 2308.301 provided by a towing or booting company to a parking facility owner.

### **Sec. 2308.402. Towing Company and Booting Company Prohibited from Financial Involvement with Parking Facility Owner.**

(a) A towing company or booting company may not directly or indirectly give anything of value to a parking facility owner in connection with:

(1) the removal of a vehicle from a parking facility; or

(2) the booting of a vehicle in a parking facility.

(b) A towing company may not have a direct or indirect monetary interest in a parking facility:

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(1) from which the towing company for compensation removes unauthorized vehicles; or

(2) in which the booting company for compensation installs boots on unauthorized vehicles.

(c) This section does not apply to a sign required under Section 2308.301 provided by a towing or booting company to a parking facility owner.

### **Sec. 2308.403. Limitation on Liability of Parking Facility Owner for Removal or Storage of Unauthorized Vehicle.**

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

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

(2) is:

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

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

### **Sec. 2308.404. Civil Liability of Towing Company, Booting Company, or Parking Facility Owner for Violation of Chapter.**

(a) A towing company, booting company, or parking facility owner who violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for:

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

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

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

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

### **Sec. 2308.405. Criminal Penalty.**

A person commits an offense if the person violates this chapter. An offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,500 unless it is shown on trial of the offense that the person knowingly or intentionally violated this chapter, in which event the offense is a Class B misdemeanor.

### **Sec. 2308.406. Violation of Chapter; Injunction.**

A violation of this chapter may be enjoined under Subchapter E, Chapter 17, Business & Commerce Code.

### **Sec. 2308.407. Minor Sign or Lettering Height Variations.**

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A minor variation of a required or minimum height of a sign or lettering is not a violation of this chapter.

## **Subchapter J. Rights of Owners and Operators of Stored or Booted Vehicles**

### **Sec. 2308.451. Payment of Cost of Removal, Storage, and Booting of Vehicle.**

(a) If in a hearing held under this chapter the court finds that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the person who requested the hearing shall pay the costs of the removal and storage.

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

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

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

(c) If in a hearing held under this chapter the court finds that a person authorized, with probable cause, the booting of a vehicle in a parking facility, the person who requested the hearing shall pay the costs of the booting. (*Added pursuant to SB 2153, 81<sup>st</sup> Leg., R.S., (2009)*)

(c) If, in a hearing held under this chapter, regardless of whether the court finds that there was probable cause for the removal and storage of a vehicle, the court finds that the towing charge collected exceeded fees regulated by a political subdivision or authorized by this chapter or Chapter 2303, the towing company shall reimburse the owner or operator of the vehicle an amount equal to the overcharge. (*Added pursuant to HB 2571, 81<sup>st</sup> Leg., R.S., (2009)*)

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

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

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

### **Sec. 2308.452. Right of Owner or Operator of Vehicle to Hearing.**

The owner or operator of a vehicle that has been removed and placed in a vehicle storage facility or booted without the consent of the owner or operator of the vehicle is entitled to a hearing on whether probable cause existed for the removal and placement or booting.

### **Sec. 2308.453. Jurisdiction.**

A hearing under this chapter shall be in any justice court in:

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

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

### **Sec. 2308.454. Notice to Vehicle Owner or Operator.**

(a) If before a hearing held under this chapter the owner or operator of a vehicle pays the costs of the vehicle's

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removal or storage, the towing company or vehicle storage facility that received the payment shall at the time of payment give the owner or operator written notice of the person's rights under this chapter.

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

(c) If before a hearing held under this chapter the owner or operator of a vehicle pays the costs for removal of a boot, the booting company shall at the time of payment give the owner or operator written notice of the person's rights under this chapter. (*Added pursuant to SB 2153, 81<sup>st</sup> Leg., R.S., (2009)*)

(c) If the towing company or vehicle storage facility that received the payment fails to furnish to the owner or operator of the vehicle the name, address, and telephone number of the parking facility owner or law enforcement agency that authorized the removal of the vehicle, the towing company or vehicle storage facility that received the payment is liable if the court, after a hearing, does not find probable cause for the removal and storage of the vehicle. (*Added pursuant to HB 2571, 81<sup>st</sup> Leg., R.S., (2009)*)

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

## **Sec. 2308.455. Contents of Notice.**

The notice under Section 2308.454 must include:

(1) a statement of:

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

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

(C) any filing fee for the hearing; and

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

(i) the county from which the vehicle was towed; or

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

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

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

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

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

## **Sec. 2308.456. Request for Hearing.**

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(a) Except as provided by Subsection (c), a person entitled to a hearing under this chapter must deliver a written request for the hearing to the court before the 14<sup>th</sup> day after the date the vehicle was removed and placed in the vehicle storage facility or booted, excluding Saturdays, Sundays, and legal holidays. (*Amended pursuant to SB 2153, 81<sup>st</sup> Leg., R.S., (2009)*)

(a) Except as provided by Subsections (c) and (c-1), a person entitled to a hearing under this chapter must deliver a written request for the hearing to the court before the 14<sup>th</sup> day after the date the vehicle was removed and placed in the vehicle storage facility or booted, excluding Saturdays, Sundays, and legal holidays. (*Amended pursuant to HB 2571, 81<sup>st</sup> Leg., R.S., (2009)*)

(b) A request for a hearing must contain:

- (1) the name, address, and telephone number of the owner or operator of the vehicle;
- (2) the location from which the vehicle was removed or in which the vehicle was booted;
- (3) the date when the vehicle was removed or booted;
- (4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal or booting;
- (5) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed;
- (6) the name, address, and telephone number of the towing company that removed the vehicle or of the booting company that installed a boot on the vehicle;
- (7) a copy of any receipt or notification that the owner or operator received from the towing company, the booting company, or the vehicle storage facility; and
- (8) if the vehicle was removed from or booted in a parking facility:
  - (A) one or more photographs that show the location and text of any sign posted at the facility restricting parking of vehicles; or
  - (B) a statement that no sign restricting parking was posted at the parking facility.

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

(c-1) The 14-day period for requesting a hearing under Subsection (a) does not begin until the date on which the towing company or vehicle storage facility provides to the vehicle owner or operator the information necessary for the vehicle owner or operator to complete the material for the request for hearing required under Subsections (b)(2) through (6).

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

### **Sec. 2308.457. Filing Fee Authorized.**

The court may charge a filing fee of \$20 for a hearing under this chapter.

### **Sec. 2308.458. Hearing.**

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(a) A hearing under this chapter shall be held before the 21<sup>st</sup> calendar day after the date the court receives the request for the hearing.

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

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

- (1) the burden of proof is on the person who requested the hearing; and
- (2) hearsay evidence is admissible if it is considered otherwise reliable by the justice of the peace.

(b-2) The court shall notify the person who requested the hearing for a booted vehicle, the parking facility in which the vehicle was booted, and the booting company of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure. The notice of hearing to the person that authorized the booting of the vehicle must include a copy of the request for hearing.

(c) The issues in a hearing regarding a towed vehicle under this chapter are:

- (1) whether probable cause existed for the removal and placement of the vehicle;
- (2) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized by the political subdivision under Section 2308.201 or 2308.202;
- (3) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized under Section 2308.203; or
- (4) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized under Section 2308.0575.

(c-1) The issues in a hearing regarding a booted vehicle under this chapter are:

- (1) whether probable cause existed for the booting of the vehicle; and
- (2) whether a boot removal charge imposed or collected in connection with the removal of the boot from the vehicle was greater than the amount authorized by the political subdivision under Section 2308.2085.

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

(e) The court may award:

- (1) court costs and attorney's fees to the prevailing party;
- (2) the reasonable cost of photographs submitted under Section 2308.456(b)(8) to a vehicle owner or operator who is the prevailing party;
- (3) an amount equal to the amount that the towing charge or booting removal charge and associated parking fees exceeded fees regulated by a political subdivision or authorized by this code or by

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

### **Sec. 2308.459. Appeal.**

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

### **Sec. 2308.460. Enforcement of Award.**

(a) An award under this chapter may be enforced by any means available for the enforcement of a judgment for a debt.

(b) The department shall suspend a license holder's license on the license holder's failure to pay a final judgment awarded to an owner or operator of a vehicle before the 60<sup>th</sup> day after the date of the final judgment. The department must provide notice of the suspension to the license holder at least 30 days before the date the license is to be suspended.

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

(d) On receipt of the certified copy of the unpaid final judgment, the department shall disqualify a person from renewing a license or permit or deny the person the opportunity of taking a licensing examination on the grounds that the person, towing company, or vehicle storage facility has not paid a final judgment awarded to an owner or operator of a vehicle.

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

## **Subchapter K. Enforcement**

### **Sec. 2308.501. Administrative Penalty.**

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

- (1) this chapter or a rule adopted under this chapter; or
- (2) a rule or order of the executive director or commission.

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

### **Sec. 2308.502. Cease and Desist Order; Injunction; Civil Penalty.**

(a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

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

### **Sec. 2308.503. Sanctions.**

## **Sec. 2308.504. Criminal Penalty; Licensing.**

(a) A person commits an offense if the person:

- (1) violates the permitting or licensing requirements of this chapter;
- (2) performs towing without a license to perform towing in this state;
- (3) employs an individual who does not hold the appropriate license required by this chapter; or
- (4) falsifies a certification or training.

(b) An offense under this section is a Class C misdemeanor. An offense under this section is enforceable by law enforcement.

## **Sec. 2308.505. Criminal Penalty; Towing.**

(a) A person commits an offense if the person:

- (1) violates an ordinance, resolution, order, rule, or regulation of a political subdivision adopted under Section 2308.201, 2308.202, or 2308.2085 for which the political subdivision does not prescribe the penalty;
- (2) charges or collects a fee in a political subdivision that regulates the operation of tow trucks under Section 2308.201 or 2308.202 or booting under Section 2308.2085 that is not authorized or is greater than the authorized amount of the fee;
- (3) charges or collects a fee greater than the amount authorized under Section 2308.204;
- (4) charges or collects a fee in excess of the amount filed with the department under Section 2308.206;
- (5) violates Section 2308.205; or
- (6) violates a rule of the department applicable to a tow truck, towing company, or booting company.

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

*NOTE: AS AMENDED BY ACTS 2013, 83<sup>rd</sup> LEG., SB 1053, SECTION 3 READS:*

*The changes in law made by this Act apply only to a notice mailed on or after September 1, 2013. A notice mailed before September 1, 2013, is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.*

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