

BILL ANALYSIS

Senate Research Center
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S.B. 1371
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, the Texas Department of Licensing and Regulation (TDLR) oversees the vehicle towing, booting, and storage program. These duties were transferred to TDLR during the 80th Legislature. The 81st Legislature passed a number of bills that made significant changes to the towing and vehicle storage facility laws including providing for the regulation of vehicle booting under the same chapters of the Occupations Code.

Some of the changes regarding the regulation of vehicle booting have caused some unintended consequences, specifically relating to signage.

S.B. 1371 provides language to clarify current law and streamline the regulation of vehicle towing, booting, and storage.

As proposed, S.B. 1371 amends current law relating to the regulation of the towing, booting, and storage of vehicles.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Commission of Licensing and Regulation is modified in SECTION 3 (Section 2308.057, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2303.1511, Occupations Code, by adding Subsection (c), as follows:

(c) Provides that this section does not apply to a vehicle received as a result of an incident management tow requested by law enforcement. Defines "incident management tow" in this subsection.

SECTION 2. Amends Section 2303.160(c), Occupations Code, as follows:

(c) Provides that Subsection (b) (relating to requiring a vehicle storage facility to accept evidence of financial responsibility as an additional form of identification that establishes ownership or right of possession or control of the vehicle) does not require a vehicle storage facility to release a vehicle to the owner or operator of the vehicle if the owner or operator of the vehicle does not:

(1) pay the charges associated with delivery or storage of the vehicle; and

(2) present valid photo identification issued by this state, another state, a federal agency, or a foreign government. Makes a nonsubstantive change.

SECTION 3. Amends Section 2308.057(b), Occupations Code, as follows:

(b) Requires the Texas Commission of Licensing and Regulation (TCLR) by rule to 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.

Makes nonsubstantive changes.

SECTION 4. Amends Section 2308.159(c), Occupations Code, as follows:

(c) Authorizes a license holder to 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;
- (3) paying a renewal fee; and
- (4) completing continuing education as required by Section 2308.157 (Continuing Education).

Makes nonsubstantive changes.

SECTION 5. Amends Section 2308.206(a), Occupations Code, as follows:

(a) Requires a towing company to file with the Texas Department of Licensing and Regulation (TDLR) a fee schedule showing each towing fee that the towing company charges or collects in connection with a nonconsent tow:

- (1) with an original application for a license under this chapter;
- (2) on renewal of a license issued under this chapter;
- (3) on the date the towing company changes a fee on a previously filed fee schedule; and
- (4) as required by TCLR rule.

Deletes existing text requiring a towing company, before January 31 of each year, to file with TDLR a schedule showing each towing fee that the towing company charges or collects in connection with a nonconsent tow. Makes a nonsubstantive change.

SECTION 6. Amends the heading to Section 2308.255, Occupations Code, to read as follows:

Sec. 2308.255. TOWING COMPANY'S OR BOOT OPERATOR'S AUTHORITY TO REMOVE AND STORE OR BOOT UNAUTHORIZED VEHICLE.

SECTION 7. Amends Section 2308.255(d), Occupations Code, as follows:

(d) Authorizes a towing company to remove and store a vehicle under Subsection (a) (relating to a towing company's authority to remove and store an unauthorized vehicle) and authorizes a boot operator to boot a vehicle under Section 2308.257 (Booting of Unauthorized Vehicle) only if the parking facility owner:

- (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, rather than in the parking facility from which the vehicle will be removed.

SECTION 8. Redesignates Section 2308.257, Occupations Code, as added by Chapter 757 (S.B. 702), Acts of the 81st Legislature, Regular Session, 2009, as Section 2308.2555, Occupations Code, as follows:

Sec. 2308.2555. REMOVAL OF CERTAIN UNAUTHORIZED VEHICLES IN RURAL AREAS. (a)-(c) Makes no changes to these subsections.

SECTION 9. Amends Section 2308.301(b), Occupations Code, as follows:

(b) Authorizes an unauthorized vehicle, except as provided by Section 2308.305 (Individual Parking Restrictions in Restricted Area), to be towed under Section 2308.252(a)(1) (relating to signs prohibiting unauthorized vehicles in a parking facility) or booted under Section 2308.257 only if each sign prohibiting unauthorized vehicles meets certain criteria, including that it bears the words, as applicable, "Unauthorized Vehicles Will Be Towed or Booted at Owner's or Operator's Expense"; "Unauthorized Vehicles Will Be Towed at Owner's or Operator's Expense"; or "Unauthorized Vehicles Will Be Booted at Owner's or Operator's Expense." Makes a nonsubstantive change.

SECTION 10. Amends Section 2308.302(c), Occupations Code, as follows:

(c) Requires that the portion of the sign immediately below the international towing symbol:

(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

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

Makes nonsubstantive changes.

SECTION 11. Amends Section 2308.401, Occupations Code, by adding Subsection (c), to provide that this section does not apply to a sign required under Section 2308.301 (General Requirements for Sign Prohibiting Unauthorized Vehicles) provided by a towing or booting company to a parking facility owner.

SECTION 12. Amends Section 2308.402, Occupations Code, by adding Subsection (c), to provide that 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.

SECTION 13. Reenacts Section 2308.453, Occupations Code, as amended by Chapters 845 (S.B. 2153) and 1310 (H.B. 2571), Acts of the 81st Legislature, Regular Session, 2009, as follows:

Sec. 2308.453. JURISDICTION. Requires that a hearing under this chapter be in the justice court having jurisdiction in:

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

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

SECTION 14. Amends Section 2308.504(b), Occupations Code, to provide that an offense under this section is enforceable by law enforcement.

SECTION 15. Amends Section 2308.505(b), Occupations Code, to provide that an offense under this section is enforceable by law enforcement.

SECTION 16. (a) Provides that the change in law made by this Act to Section 2308.159, Occupations Code, applies only to an application for renewal of a license made on or after September 1, 2011.

(b) Provides that an application for renewal of a license made before September 1, 2011, is governed by the law as it existed immediately before September 1, 2011, and that law is continued in effect for that purpose.

SECTION 17. Provides that, to the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 18. Effective date: September 1, 2011.