

BILL ANALYSIS

Senate Research Center

C.S.S.B. 2065
By: Hancock
Business & Commerce
4/14/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Department of Licensing and Regulation (TDLR) conducts a biennial strategic plan (Strat Plan) to evaluate the effectiveness and efficiency of its various licensing programs. As a result of the most recent 2016 Strat Plan, TDLR recommended six statutory changes to deregulate or eliminate certain programs the agency currently oversees. These six statutory recommendations were combined into one deregulation omnibus bill, a summary for each of which is listed below:

Article 1—Vehicle Protection Products: This portion of the omnibus bill deregulates state oversight of vehicle warrantors and retains consumer protection provisions by expanding the definition of "false, misleading, or deceptive acts" to include warrantor programs that represent themselves as property insurance, casualty insurance, or surety businesses.

Article 2—Temporary Common Worker Employers: This portion of the omnibus bill repeals the statewide licensing requirement for temporary common worker employers while preserving local government authority to prohibit a person from operating as a temporary common worker employer. It is stated that a person may still operate as a temporary common worker employer in Texas if they adhere to certain recordkeeping and safety standards.

Article 3—For-Profit Legal Service Contract Companies: This portion of the omnibus bill repeals the statewide regulation of legal service contract companies by eliminating the requirement for companies and individuals to submit initial licenses and renewal applications, pay initial fees, pay annual renewal fees, or be subjected to disciplinary action in the form of administrative penalties and sanctions. Consumer protection provisions through the Deceptive Trade Practices Act are referenced and retained.

Article 4—Barbering and Cosmetology:

- **Shampooing:** This portion of the omnibus bill repeals provisions relating to the issuance of a shampoo apprentice permit and a shampoo specialty certificate, and subsequently expires the permit and certificate. Also, it removes shampooing and hair conditioning from the definitions of barbering and cosmetology, and removes the prohibition against a person holding a beauty shop license or specialty shop license from employing a person to shampoo or condition a person's hair.
- **Eyebrow Threading:** This portion of the omnibus bill removes the language from the Occupations Code that was previously interpreted to grant TDLR enforcement authority on the practice of eyebrow threading. This update explicitly states within the Occupations Code that the practice of cosmetology and barbering does not include the act of eyebrow threading.

Article 5—Vehicle Booting: This portion of the omnibus bill repeals the statewide regulation of booting companies and operators and preserves the authority of municipalities, political subdivisions, and institutions of higher education to regulate booting activities. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 2065 amends current law relating to the licensing and regulation of certain occupations and activities.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Commission of Licensing and Regulation (TCLR) is modified in SECTION 4.006 (Section 1602.255, Occupations Code) and SECTION 4.014 (Section 1602.354, Occupations Code) of this bill.

Rulemaking authority previously granted to TCLR is rescinded in SECTION 1.005 (Sections 2306.051, 2306.154, and 2306.204, Occupations Code) SECTION 4.017 (Sections 1601.261 and 1602.267, Occupations Code) of this bill.

Rulemaking authority previously granted to the executive director of the Texas Department of Licensing and Regulation is rescinded in SECTION 3.003 (Section 953.162, Occupations Code) and SECTION 3.005 (Sections 953.005, 953.056, and 953.057, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. VEHICLE PROTECTION PRODUCTS

SECTION 1.001. Amends Section 17.45, Business & Commerce Code, by adding Subdivisions (14), (15), and (16), to define "vehicle protection product," "warrantor," and "loss of or damage to the vehicle."

SECTION 1.002. Reenacts Section 17.46(b), Business & Commerce Code, as amended by Chapters 1023 (H.B. 1265) and 1080 (H.B. 2573), Acts of the 84th Legislature, Regular Session, 2015, and amends it to provide that except as provided in Subsection (d) of this section, the term "false, misleading, or deceptive acts or practices" includes, but is not limited to, certain acts.

SECTION 1.003. Amends Subchapter A, Chapter 348, Finance Code, by adding Section 348.014, as follows:

Sec. 348.014. TRANSACTION CONDITIONED ON PURCHASE OF VEHICLE PROTECTION PRODUCT PROHIBITED. (a) Defines "vehicle protection product."

(b) Prohibits a retail seller from requiring as a condition of a retail installment transaction or the cash sale of a motor vehicle that the buyer purchase a vehicle protection product that is not installed on the vehicle at the time of the transaction.

(c) Provides that a violation of this section is a false, misleading, or deceptive act or practice within the meaning of Section 17.46 (Deceptive Trade Practices Unlawful), Business & Commerce Code, and is actionable in a public or private suit brought under Subchapter E (Deceptive Trade Practices and Consumer Protection), Chapter 17 (Deceptive Trade Practices), Business & Commerce Code.

SECTION 1.004. Amends Subchapter A, Chapter 353, Finance Code, by adding Section 353.017, as follows:

Sec. 353.017. TRANSACTION CONDITIONED ON PURCHASE OF VEHICLE PROTECTION PRODUCT PROHIBITED. (a) Defines "vehicle protection product."

(b) Prohibits a retail seller from requiring as a condition of a retail installment transaction or the cash sale of a commercial vehicle that the buyer purchase a vehicle protection product that is not installed on the vehicle at the time of the transaction.

(c) Provides that a violation of this section is a false, misleading, or deceptive act or practice within the meaning of Section 17.46, Business & Commerce Code, and is actionable in a public or private suit brought under Subchapter E, Chapter 17, Business & Commerce Code.

SECTION 1.005. Repealer: Chapter 2306 (Vehicle Protection Product Warrantors), Occupations Code.

SECTION 1.006. (a) Provides that on the effective date of this Act an action, including a disciplinary or administrative proceeding, pending under Chapter 51 (Texas Department of Licensing and Regulation) or 2306, Occupations Code, on the effective date of this Act related to an alleged violation of Chapter 2306, Occupations Code, as that chapter existed immediately before the effective date of this Act, is dismissed, the Vehicle Protection Product Warrantor Advisory Board is abolished, and a registration issued under former Chapter 2306, Occupations Code, expires.

(b) Requires the Texas Commission of Licensing and Regulation (TCLR), as soon as practicable after the effective date of this Act, to repeal all rules regarding the regulation of vehicle protection product warrantors adopted under former Chapter 2306, Occupations Code.

(c) Authorizes an administrative penalty assessed by TCLR or the executive director of the Texas Department of Licensing and Regulation (TDLR) related to a violation of Chapter 2306, Occupations Code, as that chapter existed immediately before the effective date of this Act, to be collected as provided by Chapter 51, Occupations Code.

(d) Provides that the repeal by this Act of Chapter 2306, Occupations Code, does not affect the validity or terms of a vehicle protection product warranty that was issued or renewed before the effective date of this Act.

SECTION 1.007. Makes application of Section 17.46(b), Business & Commerce Code, as amended by this Act, prospective.

SECTION 1.008. Makes application of Sections 348.014 and 353.017, Finance Code, as added by this Act, prospective.

ARTICLE 2. TEMPORARY COMMON WORKER EMPLOYERS

SECTION 2.001. Amends Section 92.001(a), Labor Code, as follows:

(a) Provides that the legislature finds that this chapter is necessary to provide for the health, safety, and welfare of common workers throughout this state and establish uniform standards of conduct and practice for temporary common worker employers, rather than certain employers, in this state.

SECTION 2.002. Amends Section 92.002, Labor Code, by amending Subdivision (6) and adding Subdivision (6-a), to redefine "labor hall" and define "municipality."

SECTION 2.003. Amends the heading to Subchapter B, Chapter 92, Labor Code, to read as follows:

SUBCHAPTER B. AUTHORITY TO OPERATE

SECTION 2.004. Amends Subchapter B, Chapter 92, Labor Code, by adding Section 92.0115, as follows:

Sec. 92.0115. AUTHORITY TO OPERATE. Authorizes a person, subject to Section 92.013 (Effect of Other Regulation) and unless prohibited by governmental subdivision, to operate as a temporary common worker employer in this state if the person meets the requirements of this chapter.

SECTION 2.005. Amends the heading to Section 92.012, Labor Code, to read as follows:

Sec. 92.012. EXEMPTIONS.

SECTION 2.006. Amends Section 92.013(b), Labor Code, to authorize a municipality with a population greater than one million to establish municipal requirements, rather than municipal licensing requirements, that impose stricter standards of conduct and practice than those imposed under Subchapter C.

SECTION 2.007. Amends the heading to Subchapter C, Chapter 92, Labor Code, to read as follows:

SUBCHAPTER C. STANDARDS OF CONDUCT AND PRACTICE

SECTION 2.008. Amends Section 92.021, Labor Code, as follows:

Sec. 92.021. New heading: POWERS AND DUTIES OF EMPLOYER. (a) Provides that each temporary common worker employer, rather than license holder, is the employer of the common workers provided by that temporary common worker employer, rather than license holder.

(b) Makes conforming changes.

SECTION 2.009. Amends Section 92.022, Labor Code, as follows:

Sec. 92.022. REQUIRED RECORDS; CONFIDENTIALITY. (a) Requires each temporary common worker employer, rather than license holder, to maintain and make available to a governmental subdivision, rather than representative of TDLR, records that show for each common worker provided by the temporary common worker employer, rather than license holder, to a user of common workers certain information.

(b) Makes conforming changes.

(c) Changes references to TCLR or TDLR to governmental subdivision.

SECTION 2.010. Amends Section 92.023(b), Labor Code, as follows:

(b) Requires each temporary common worker employer, rather than license holder, to post in a conspicuous place in the premises on which the temporary common worker employer operates, rather than licensed premises, a notice of any charge permitted under this chapter that the temporary common worker employer, rather than license holder, may assess against a common worker for equipment, tolls, transportation, or other work-related services.

SECTION 2.011. Amends Section 92.024, Labor Code, as follows:

Sec. 92.024. LABOR HALL REQUIREMENTS. Requires a temporary common worker employer, rather than license holder, that operates a labor hall as part of a premises on which the temporary common worker employer operates, rather than licensed premises, to provide adequate facilities for a worker waiting for a job assignment. Requires that the facilities include restroom facilities for both men and women, drinking water, sufficient seating, and access to vending refreshments and food.

SECTION 2.012. Amends Section 92.025, Labor Code, as follows:

Sec. 92.025. CERTAIN CHARGES AND DEDUCTIONS PROHIBITED. (a) Changes reference to license holder to a temporary common worker employer.

(b) Makes a conforming change.

SECTION 2.013. Amends Chapter 92, Labor Code, by adding Subchapter D, as follows:

SUBCHAPTER D. ENFORCEMENT

Sec. 92.031. ENFORCEMENT. Authorizes a governmental subdivision to enforce this chapter within the boundaries of the governmental subdivision.

SECTION 2.014. Repealers: Sections 92.002(1) (relating to the definition of "commission"), (4) (relating to the definition of "department"), and (4-a) (relating to the definition of executive directors), Labor Code;

Repealer: Section 92.003 (Agency Powers and Duties), Labor Code;

Repealer: Section 92.004 (Applicability of Other Law), Labor Code;

Repealer: Section 92.011 (License Required), Labor Code;

Repealer: Section 92.013(a) (relating to hierarchy of licenses), Labor Code;

Repealer: Section 92.014 (License Application and Issuance), Labor Code;

Repealer: Section 92.015 (License Renewal), Labor Code; and

Repealer: Section 92.023(a) (relating to requiring each license holder to post the license for a place of business in a conspicuous place), Labor Code.

SECTION 2.015. (a) Provides that an administrative proceeding pending under Chapter 51, Occupations Code, or Chapter 92 (Temporary Common Worker Employers), Labor Code, on the effective date of this Act related to a violation of Chapter 92, Labor Code, as that chapter existed immediately before the effective date of this Act, is dismissed.

(b) Authorizes an administrative penalty assessed by TCLR or the executive director of TDLR related to a violation of Chapter 92, Labor Code, as that chapter existed immediately before the effective date of this Act, to be collected as provided by Chapter 51, Occupations Code.

(c) Provides that the changes in law made by this Act do not affect the pending prosecution of an offense under Chapter 92, Labor Code, as that chapter existed immediately before the effective date of this Act. Provides that an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. Provides that for purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

ARTICLE 3. FOR-PROFIT LEGAL SERVICE CONTRACT COMPANIES

SECTION 3.001. Amends Section 953.001(1), Occupations Code, by redefining "administrator."

SECTION 3.002. Amends Section 953.156, Occupations Code, as follows:

Sec. 953.156. FORM OF LEGAL SERVICE CONTRACT AND REQUIRED DISCLOSURES. Deletes text of existing Subsection (a) and deletes Subsection (b) designation. Requires a legal service contract marketed, sold, offered for sale, administered, or issued in this state to meet certain criteria.

SECTION 3.003. Amends Section 953.162, Occupations Code, as follows:

Sec. 953.162. APPOINTMENT AND RESPONSIBILITIES OF ADMINISTRATOR. Deletes existing Subsection (a) designation. Authorizes a company to appoint an administrator or designate a person to be responsible for all or any part of the administration or sale of legal service contracts and compliance with this chapter. Deletes the text of previously existing Subsection (b) (relating to authorizing the executive director of TDLR to adopt rules regarding the registration of an administrator).

SECTION 3.004. Amends Chapter 953, Occupations Code, by adding Subchapter F, as follows:

SUBCHAPTER F. ENFORCEMENT

Sec. 953.251. DECEPTIVE TRADE PRACTICE. Provides that a violation of this chapter is a deceptive trade practice actionable under Subchapter E, Chapter 17, Business & Commerce Code.

SECTION 3.005. Repealers: Sections 953.001(4) (relating to the definition of "department"), (5) (relating to the definition of "executive director"), and (6) (relating to the definition of "financial security"), Occupations Code;

Repealer: Section 953.004 (Prepaid Legal Service Contract Programs), Occupations Code;

Repealer: Section 953.005 (Powers and Duties of Executive Director), Occupations Code;

Repealer: Section 953.155 (Company Records), Occupations Code; and

Repealers: Subchapters B (Registration Requirements), C (Financial Security Requirements for Legal Service Contract Companies), and E (Disciplinary Action), Chapter 957 (Regulation of For-Profit Legal Service Contract Companies), Occupations Code.

SECTION 3.006 (a) Provides that on the effective date of this article, a registration issued under former Subchapter B, Chapter 953, Occupations Code, expires.

(b) Provides that on the effective date of this article, a pending proceeding under Chapter 953, Occupations Code, including a complaint investigation, disciplinary action, or administrative penalty proceeding, relating to a registration issued under former Subchapter B, Chapter 953, Occupations Code, or relating to another former provision of Chapter 953, Occupations Code, that is repealed by this article, is dismissed.

SECTION 3.007. Provides that this article takes effect September 1, 2019.

ARTICLE 4. BARBERING AND COSMETOLOGY

SECTION 4.001. Amends Section 1601.002, Occupations Code, as follows:

Sec. 1601.002. DEFINITION OF BARBERING. Redefines "barbering," "practicing barbering," and "practice of barbering."

SECTION 4.002. Amends Subchapter A, Chapter 1601, Occupations Code, by adding Section 1601.0025, as follows:

Sec. 1601.0025. SERVICES NOT CONSTITUTING BARBERING. Provides that, notwithstanding Section 1601.002, "barbering," "practicing barbering," and "practice of barbering" do not include threading, which involves removing unwanted hair from a person by using a piece of thread that is looped around the hair and pulled to remove the hair and includes the incidental trimming of eyebrow hair.

SECTION 4.003. Amends Section 1601.256(a), Occupations Code, to authorize a person holding a barber technician license to perform certain actions.

SECTION 4.004. Amends Section 1602.002(a), Occupations Code, to redefine "cosmetology."

SECTION 4.005. Amends Subchapter A, Chapter 1602, Occupations Code, by adding Section 1602.0025, as follows:

Sec. 1602.0025. SERVICES NOT CONSTITUTING COSMETOLOGY. Provides that, notwithstanding Section 1602.002(a), "cosmetology" does not include threading, which involves removing unwanted hair from a person by using a piece of thread that is looped around the hair and pulled to remove the hair and includes the incidental trimming of eyebrow hair.

SECTION 4.006. Amends Section 1602.255(c), Occupations Code, to require TCLR to adopt rules for the licensing of specialty instructors to teach specialty courses in the practice of cosmetology defined in Sections 1602.002(a)(5), (7), (8), and (10), rather than 1602.002(a)(6), (8), (9), and (11).

SECTION 4.007. Amends Section 1602.256(a), Occupations Code, to authorize a person holding a manicurist specialty license to perform only the practice of cosmetology defined in Section 1602.002(a)(8) or (9), rather than 1602.002(a)(9) or (10).

SECTION 4.008. Amends Section 1602.257(a), Occupations Code, to authorize a person holding an esthetician specialty license to perform only the practice of cosmetology defined in Sections 1602.002(a)(4), (5), (6), (7), and (10), rather than Sections 1602(a)(5), (6), (7), (8), and (11).

SECTION 4.009. Amends Section 1602.2571(a), Occupations Code, to authorize a person holding a specialty license in eyelash extension application to perform only the practice of cosmetology defined in Section 1602.002(a)(10), rather than 1602.002(a)(11).

SECTION 4.010. Amends Section 1602.259(a), Occupations Code, to authorize a person holding a hair weaving specialty certificate to perform only the practice of cosmetology defined in Section 1602.002(a)(11), rather than Sections 1602.002(a)(2) and (12).

SECTION 4.011. Amends Section 1602.260(a), Occupations Code, to authorize a person holding a wig specialty certificate to perform only the practice of cosmetology defined in Section 1602.002(a)(2), rather than 1602.002(a)(3).

SECTION 4.012. Amends Section 1602.261(a), Occupations Code, to authorize a person holding a manicurist/esthetician specialty license to perform only the practice of cosmetology defined by Sections 1602.002(a)(4) through (9), rather than Sections 1602.002(a)(5) through (10).

SECTION 4.013. Amends Section 1602.305(a), Occupations Code, to authorize a person holding a specialty shop license to maintain an establishment in which only the practice of cosmetology as defined in Section 1602.002(a)(2), (5), (7), (8), or (10), rather than 1602.002(a)(3), (6), (8), (9), or (11), is performed.

SECTION 4.014. Amends Section 1602.354(a), Occupations Code, to require TCLR to, by rule, recognize, prepare, or administer continuing education programs for the practice of cosmetology. Requires participation in the programs for all license renewals, rather than for all license renewals other than renewal of a shampoo specialty certificate.

SECTION 4.015. Amends Section 1602.403(c), Occupations Code, to prohibit a person holding a beauty shop license or a specialty shop license from employing a person as an operator or specialist unless the person holds a license or certificate under this chapter or under Chapter 1601 (Barbers). Deletes existing Subdivision (1) designation and the text of Subdivision (2) (relating to shampooing or conditioning a person's hair).

SECTION 4.016. Amends Section 1603.352(a), Occupations Code, to require a person who holds a license, certificate, or permit issued under this chapter, Chapter 1601, or Chapter 1602 (Cosmetologists) and who performs a barbering service described by Section 1601.002(1)(E) or (F) or a cosmetology service described by Section 1602.002(a)(8) or (9), rather than Section 1602.002(a)(9) or (10), to, before performing the service, clean, disinfect, and sterilize with an autoclave or dry heat sterilizer or sanitize with an ultraviolet sanitizer, in accordance with the sterilizer or sanitizer manufacturer's instructions, each metal instrument, including metal nail

clippers, cuticle pushers, cuticle nippers, and other metal instruments, used to perform the service.

SECTION 4.017. Repealer: Section 1601.260(c) (relating to authorizing a person holding a student permit to shampoo or condition a person's hair in a licensed facility), Occupations Code;

Repealer: Section 1601.261 (Eligibility for Shampoo Apprentice Permit), Occupations Code;

Repealer: Section 1601.301(c) (relating to authorizing a person who owns, operates, or manages a certain type of shop to employ a person holding a student permit), Occupations Code;

Repealer: Section 1602.266(c) (relating to authorizing a person holding a student permit to shampoo or condition a person's hair in a licensed facility), Occupations Code;

Repealer: Section 1602.267 (Shampoo Apprentice Permit), Occupations Code;

Repealer: Section 1602.301(c) (relating to authorizing a person who owns, operates, or manages a certain type of shop to employ a person holding a student permit), Occupations Code; and

Repealer: Section 1602.456 (b-1) (relating to prohibiting a private beauty culture school or public school from receiving certain compensation), Occupations Code.

SECTION 4.018. Provides that on the effective date of this Act, a shampoo apprentice permit issued under former Section 1601.261 or 1602.267, Occupations Code, expires and a shampoo specialty certificate issued under Chapter 1602 expires.

SECTION 4.019. (a) Provides that the changes in law made by this Act to Chapters 1601, 1602, and 1603, Occupations Code, do not affect the validity of a proceeding pending before a court or other governmental entity on the effective date of this Act.

(b) Provides that an offense or other violation of law committed under Chapter 1601, 1602, or 1603, Occupations Code, before the effective date of this Act is governed by the law in effect when the offense or violation was committed, and the former law is continued in effect for that purpose. Provides that for purposes of this subsection an offense or violation was committed before the effective date of this Act if any element of the offense or violation occurred before that date.

ARTICLE 5. MOTOR VEHICLE TOWING, BOOTING, AND STORAGE

SECTION 5.001. Amends Section 2303.058, Occupations Code, as follows:

Sec. 2303.058. ADVISORY BOARD. Requires the Towing and Storage Advisory Board, rather than the Towing, Storage, and Booting Advisory Board, under Chapter 2308 (Vehicle Towing and Booting) to advise TCLR in adopting vehicle storage rules under this chapter.

SECTION 5.002. Amends Section 2308.002, Occupations Code, by amending Subdivisions (1) and (8-a) and adding Subdivisions (5-b) and (8-b), to redefine "advisory board," define "local authority," and "peace officer," and redesignate the definition of "private property tow."

SECTION 5.003. Amends Section 2308.004, Occupations Code, effective September 1, 2018, as follows:

Sec. 2308.004. EXEMPTION. Provides that Sections 2308.151(b), 2308.2085, 2308.257, and 2308.258, rather than this chapter does, do not apply to:

(1) a person who, while exercising a statutory or contractual lien right with regard to a vehicle:

(A) and (B) redesignates existing Subdivisions (1) and (2) as Paragraphs (A) and (B); or

(2) a commercial office building owner or manager who installs or removes a boot in the building's parking facility. Makes a nonsubstantive change.

SECTION 5.004. Reenacts Section 2308.051(a), Occupations Code, as amended by Chapters 457 (H.B. 2548) and 845 (S.B. 2153), Acts of the 81st Legislature, Regular Session, 2009, and amends it as follows:

(a) Sets forth the composition and procedures for appointing members to the advisory board.

SECTION 5.005. Amends Section 2308.151, Occupations Code, effective September 1, 2018, as follows:

Sec. 2308.151. New heading: LICENSE OR LOCAL AUTHORIZATION REQUIRED.

(a) Prohibits a person, unless the person holds an appropriate license under this subchapter, from performing towing operations or operating a towing company. Creates this subsection from existing text. Makes nonsubstantive changes.

(b) Prohibits a person, unless a person is authorized by a local authority under Section 2308.2085, from performing booting operations or operating a booting company.

SECTION 5.006. Amends Section 2308.2085, Occupations Code, as follows:

Sec. 2308.2085. New heading: LOCAL AUTHORITY REGULATION OF BOOTING ACTIVITIES. (a) Authorizes a local authority, rather than municipality, to regulate, in areas in which the entity regulates parking or traffic, booting activities, including certain other activities. Redesignates existing Subsection (b) as Subsection (a).

(b) Requires regulations adopted under this section to meet certain criteria.

SECTION 5.007. Amends Section 2308.255, Occupations Code, as follows:

Sec. 2308.255. New heading: TOWING COMPANY'S AUTHORITY TO TOW AND STORE UNAUTHORIZED VEHICLE. (a) Authorizes a towing company, rather than a towing company that is insured as provided by Subsection (c) to, without the consent of an owner or operator of an unauthorized vehicle, tow the vehicle to, rather than remove, and store the vehicle at a vehicle storage facility at the expense of the owner or operator of the vehicle if certain criteria are met.

(b) Prohibits a towing company from towing, rather than removing, an unauthorized vehicle except under certain authority.

(c) Makes a conforming change.

(d) Authorizes a towing company to tow, and store a vehicle under Subsection (a), rather than remove and store a vehicle and a boot operator to boot a vehicle under Section 2308.257, only if the parking facility owner meets certain criteria.

(e) Provides that when a tow truck is used for a nonconsent tow authorized by a peace officer under Section 545.3051 (Removal of Personal Property from Roadway or Right-of-Way), Transportation Code, the operator of the tow truck and the towing company are agents of the law enforcement agency and are subject

to Section 545.3051(e) (relating to what an authority or a law enforcement agency is not liable for), Transportation Code.

SECTION 5.008. Amends Section 2308.257, Occupations Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Requires a boot operator that installs a boot on a vehicle to affix a conspicuous notice to the vehicle's front windshield or driver's side window stating certain information.

(b-1) Prohibits more than one boot from being installed on a vehicle at any time.

SECTION 5.009. Amends Subchapter F, Chapter 2308, Occupations Code, by adding Section 2308.258, as follows:

Sec. 2308.258. BOOT REMOVAL. (a) Requires a booting company responsible for the installation of a boot on a vehicle to remove the boot not later than one hour after the time the owner or operator of the vehicle contacts the company to request removal of the boot.

(b) Requires a booting company to waive the amount of the fee for removal of a boot, excluding any associated parking fees, if the company fails to have the boot removed within the time prescribed by Subsection (a).

SECTION 5.010. Amends the heading to Subchapter I, Chapter 2308, Occupations Code, to read as follows:

SUBCHAPTER I. REGULATION OF TOWING COMPANIES AND PARKING FACILITY OWNERS

SECTION 5.011. (a) Repealer: Section 2308.002(9) (relating to the definition of "property owners' association"), Occupations Code; and

Repealer: Section 2308.103(d) (relating to the use of a tow truck for a nonconsent tow initiated by a peace officer), Occupations Code.

(b) Repealers, effective September 1, 2018: Sections 2308.1555 (Boot Operator's License) and 2308.1556 (Booting Company License), Occupations Code.

SECTION 5.012. (a) Provides that on September 1, 2018, a license issued under former Section 2308.1555 or 2308.1556, Occupations Code, expires.

(b) Provides that the changes in law made by this Act to Section 2308.051(a), Occupations Code, regarding the qualifications for a member of the Towing and Storage Advisory Board do not affect the entitlement of a member serving on the board immediately before the effective date of this article to continue to serve and function as a member of the board for the remainder of the member's term. Requires the presiding officer of TCLR, when board vacancies occur on or after the effective date of this article, to appoint new members of the board in a manner that reflects the changes in law made by this article.

(c) Provides that the changes in law made by this article to Section 2308.255, Occupations Code, do not apply to the booting of a vehicle pursuant to a standing written agreement between a booting company and a parking facility owner entered into before the effective date of this article. Provides that the booting of a vehicle pursuant to a standing written agreement entered into before the effective date of this article is governed by the law as it existed immediately before the effective date of this article, and that law is continued in effect for that purpose.

SECTION 5.013. Effective date, this article, except as otherwise provided by this article: upon passage or September 1, 2017.

ARTICLE 6. CONFLICT OF LAW; EFFECTIVE DATE

SECTION 6.001. Provides that to the extent of any conflict, this Act prevails over another Act of the 85th Legislature, Regular Session, 2017, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 6.002. Provides that this Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 85th Legislature.

SECTION 6.003. Effective date, except as otherwise provided by this Act: September 1, 2017.