

Southwest Tow Operators & DeNovo Legal Solutions brings you: Towing & Storage Law Update

DeNovo Legal Solutions, LLC

March 21, 2017

Legislative Update Vol. 2

Texas Legislature Proposes Massive Revisions to Texas Towing and Storage Laws

Summary of Bills Affecting Texas Towing, Booting, and Storage Law.

If the number of bills filed at the legislature is any indication, 2017 will be a record year of sweeping overhaul in Texas towing and storage laws. This year, there are approximately 50 bills that [DeNovo Legal](#) and Southwest Tow Operators are tracking in the Texas house and senate.

Some of these bills correct and clean up the law while others fundamentally alter the laws governing towing companies and VSFs. In the interest of keeping both our members and the towing and storage industry at large informed and aware of these changes, [DeNovo Legal's](#) provider attorneys have researched all pending legislation and created this comprehensive legislative update.

This update summarizes each bill that materially affects the day-to-day operation of Texas towing companies and VSFs. A few of the bills that are summarized in this update will

be analyzed in detail in a subsequent publication to keep this summary concise. We hope that this update both provides guidance about pending changes in Texas towing and storage law and also inspires those affected by this proposed legislation to get involved in the legislative process and make their voices heard.

With nearly 50 separate bills pending in the Texas house and senate that directly affect towing, booting, and storage laws in Texas, it is more important than ever to get involved.

PENDING BILLS ON TEXAS TOWING AND STORAGE LAW:

HB 1247 – Governing VSF Notice Letters and Owner/Lienholder Information Sources.

HB 1247 would require that VSF operators obtain owner and lienholder notice addresses from specific, identified sources. Here, VSF operators would have to obtain the notice addresses from the state agency where the vehicle is registered or from a private entity authorized by that state agency to access such information through a secure portal.

This bill also modifies notice by publication provisions of the Texas Occupations Code. Specifically, the bill changes notice by publication by removing the publication requirement if a VSF operator obtains a report from the *National Vehicle Title Information System* (operated

Call Us Today at [\(866\) 338-7511](tel:8663387511) to Learn about our Towing & Storage Legal Care Plans!

© 2017 - DeNovo Legal Solutions, LLC – www.texastowing.legal

by the US Department of Justice) showing no registered owner or lienholder exists. The second option to avoid the notice by publication would involve the VSF operator obtaining the report directly from the state agency where the vehicle would be registered or through a private company that obtains such reports from the agency through a secure portal.

Summary: Clarifies the method of collecting owner and lienholder information; provides specific direction on process.

HB 2166 – IM Towing Rates to be Set and Regulated - Rates to be set by the State and Local Authorities.

Currently, no state regulation of IM towing prices exists. That power is reserved to political subdivisions (counties and cities) under the TTBA. This bill would change all of that.

First, this bill would modify the Texas Towing and Booting Act (“TTBA”) and require the Texas Commission of Licensing and Regulation (“Commission”) to set state-wide rates. No description is given for how these rates would be set, but the proposed rates would govern all nonconsent tows (meaning

both private property and incident management tows).

While the Commission is already required to set rates for private property tows, this new bill would require an extensive amount of additional price regulation in the industry. This includes setting rates for light, medium, and heavy duty incident management tows. This bill would also give the Commission the power to set hourly rates or flat fees for IM towing services based on geographic location. An update and adjustment to these fees would be required only once every two years.

In addition to the rate-setting power granted to the

HB 2426 Creates a Huge Potential Liability Increase for Towing Companies, VSFs, and Private Property Owners.

Commission, this bill would also allow cities and counties to set IM towing fees. This could potentially create a patchwork of state and local regulated rates that could be very difficult for IM towing companies operating in multiple counties to navigate. It also creates a situation where each IM towing company would have to be familiar with not only state laws governing rates, but also the rates passed by each individual county and/or city.

Summary: Massively increases state and local regulation of IM towing prices for services.

Current Status: HB 2166 is already progressing through the legislative process. This bill was referred to the committee on licensing and regulation on March 21, 2017.

HB 2371 – Accident Report Release.

Modifies the Texas Transportation Code permit release of a motor vehicle accident report by the Texas Department of Transportation or another governmental entity to any towing company or

vehicle storage facility listed as the first lienholder of a vehicle damaged in an accident.

Summary: Permits additional information to be released to licensed companies.

HB 2426 – Additional Notice Requirements on Private Property Towing Signs.

This Requires additional notice language on each sign placed on a parking facility where private property tows are being

Call Us Today at [\(866\) 338-7511](tel:8663387511) to Learn about our Towing & Storage Legal Care Plans!

conducted by a licensed towing company. Specifically, this bill seeks to require private property towing companies and private property owners to either add an additional sign or replace their existing signs so that the signs will give notice of a person's right to a tow hearing. There is no provision grandfathering in any existing lots in the bill at this time, which means ALL LOTS IN TEXAS would have to be in compliance when this bill becomes law.

Summary: Requires substantial modification of and/or replacement of all signs located on parking facilities where private property tows are being conducted.

HB 2427 – Tow Hearing Deadline Increase.

This bill massively increases the number of days within which a person can request a tow hearing with a justice court. Currently, the deadline for requesting a tow hearing is 14 days excluding Saturdays, Sundays, and legal holidays. Under this proposed legislation, the TTBA would be modified so that a person could request a tow hearing for up to **180 days** after the date on which the vehicle was towed. This bill does not eliminate the current language in the TTBA that extends the

filing deadline if the person does not receive proper notice of their rights from the VSF.

Summary: Massive increase in the potential liability of towing companies, private property owners, and VSFs through the extension of the filing deadline for tow hearings.

HB 2477 – Illegally Operated Vehicles for Hire.

HB 2477 grants municipal authorities the power to pass ordinances related to vehicles illegally operated for hire. This bill, which is designed to aid in the enforcement of those ordinances, would allow a designated city employee to request the removal of vehicles operated in violation of any such ordinance. It also specifically grants a towing company power to tow any such identified vehicle. In addition to the powers discussed above, the bill would grant a peace officer the power

to remove a vehicle parked on a public roadway in violation of the ordinance.

Summary: Grants counties additional authority to conduct and regulate IM Tows while also charging a fee to become part of the rotation.

HB 2482 – Roadway Clearance Program.

This bill permits counties that are adjacent to counties with a population of 3.3 million or more to establish programs under which the sheriff or commissioners court could authorize towing companies to take certain actions. These include removing vehicles that are impeding traffic from a roadway (IM tows) and relocating the vehicle to a "safe location" to be stored. This bill also allows these counties to impose a fee on a towing company in order to become part of this rotation.



DeNovo Legal
AFFORDABLE LEGAL CARE FOR THE TOWING & STORAGE INDUSTRY
(866) 338-7511
1101 NAVASOTA STREET
SUITE 1
AUSTIN, TX 78702
WWW.TEXASTOWING.LEGAL

Call Us Today at **(866) 338-7511** to Learn about our Towing & Storage Legal Care Plans!

© 2017 - DeNovo Legal Solutions, LLC – www.texastowing.legal

Summary: Increased regulatory and enforcement power by municipalities in relation to illegally operated vehicles.

HB 2508 – Sweeping Revisions to Towing and Storage Law.

This bill is too extensive to handle in a summary. This bill will be analyzed in detail part 3 of this legislative update. For purposes of this publication, this bill proposes a sweeping reorganization of laws governing liability, procedure, and regulation of towing companies, property owners, and VSFs.

HB 2598 – VSF Must Surrender Commercial Cargo Without Payment of Fees.

This bill amends the

bill would require a VSF to permit any owner, or person designated by the owner, to remove all commercial cargo from the stored vehicle at no cost. This bill includes the right to remove any property identified on a bill of lading, shipping manifest, or other similar document.

Summary: Allows a vehicle owner to remove all commercial cargo without having to pay storage fees and at no cost. Only leaves VSF in possession of vehicles.

HB 2615 – VSF Employee License Exemption for Licensed Tow Operators.

This bill solves a long-overdue problem of multiple licensure under separate statutory provisions. Specifically, this change in the law would permit

issues for people who both tow and work for a VSF; reduces potential penalties.

HB 2733 – Parking Facility Owner/Agent Approval Mandate for PP Tows.

This bill imposes a number of additional restrictions on private property tows. First, it requires that the private property owner or its authorized agent specifically request that a particular vehicle be towed before a PP tow can legally occur. Second, this bill would eliminate a towing company's ability to have a standing agreement with the property owner on which vehicles could be towed. Third, it imposes any liability for the agent's authorization for the private property tow on the property owner. Finally, it states that booting may only occur on vehicles that are specifically authorized by the property owner or agent.

Summary: Massively limits the ability of towing companies to patrol lots without direct involvement from the property owner; Increases potential liability of all involved.

HB 2781 – County Regulation of VSFs in Addition to State Regulation.

This bill modifies the Texas Occupations Code to permit a county with a population of 3.3

Proposed Law: A parking facility owner or agent would have to be physically present and authorize the individual removal of a vehicle for all private property tows.

occupations code in relation to vehicle storage facilities that receive vehicles carrying commercial cargo. It defines "commercial cargo" as "any property in or on a self-propelled vehicle that has been transported in interstate or intrastate commerce." This

any licensed tow operator (whether IM, PP, or Consent) to work at a vehicle storage facility without going through the hassle of obtaining a VSF employee license.

Summary: Simplifies licensing and employment

Call Us Today at [\(866\) 338-7511](tel:8663387511) to Learn about our Towing & Storage Legal Care Plans!

million or more and counties located next to that county to regulate VSFs. Specifically, this bill allows these counties to organize rotations for IM towing and recovery and to charge a fee to be on the rotation.

Summary: **Additional regulation, additional fees, and dual regulation by the state and each qualifying county.**

HB 2921 – Recovery of Personal Property from Vehicle Stored at Private or Governmental VSF.

This bill is slightly broader than the previous bill permitting recovery of commercial cargo. This bill, rather than defining commercial cargo, simply states that a commercial carrier can recover all personal property from stored vehicles if the vehicle is operated by a commercial carrier. This bill does not speak to the ability of a VSF to charge a fee for the recovery of the personal property, however, given that the fees which a VSF may charge are strictly regulated, it would be highly unlikely that a VSF could charge a fee for permitting the recovery of all personal property.

Summary: **More sweeping bill with simpler language permitting recovery of all personal property from a**

vehicle stored at VSF and belonging to a commercial carrier.

HB 2976 – Towing, Relocation, and Storage of Vehicles Parked in Violation of Apartment Parking Rules.

HB 2976 modifies the TTBA to permit multiunit complexes to relocate and store vehicles parked in violation of their duly adopted parking lot rules. This bill would allow a property owner, peace officer, or parking facility authorized agent to direct the relocation and/or removal of a vehicle parked in violation of the parking rules. This bill also clarifies the manner in which notice can be delivered for vehicles displaying expired registration and allows placement on additional locations on the vehicle if the vehicle is missing a windshield and/or driver's side window.

Summary: **Adds flexibility to relocate vehicles versus simply storing them; protects private property owners and allows them to enforce parking rules; fixes the issue of TDLR violations for enforcing parking facility rules.**

HB 3009 – Financial Relationships with Property Owners Permitted.

By repealing Sections 2308.501(a) and (c) of the

TTBA, this bill permits parking facility owners to have a financial interest in, and receive, compensation from private property tows and/or booting that occurs on their parking facilities. This bill would terminate the longstanding rule that a property owner cannot receive anything of value from a towing company in connection with the removal of a vehicle from a parking facility.

Summary: **Removes financial regulation and potential violations of the TTBA, but does not limit the nature of the financial relationship between towing company and property owner.**

HB 3306 – Local Regulation of Booting; Role of Towing Companies; Changes to Towing and Storage Laws.

This bill is another extensive modification to the laws governing the towing, booting, and storage industry in Texas. This law will be reviewed separately and in detail in a separate publication. If you have immediate questions on this regulation, you are encouraged to contact [DeNovo Legal Solutions](#) and Southwest Tow Operators.

Call Us Today at [\(866\) 338-7511](tel:8663387511) to Learn about our Towing & Storage Legal Care Plans!

DeNovo Legal

AFFORDABLE LEGAL CARE FOR THE TOWING & STORAGE INDUSTRY

(866) 338-7511

1101 NAVASOTA STREET

SUITE 1

AUSTIN, TX 78702

WWW.TEXASTOWING.LEGAL

Summary: Substantial modifications to the regulation of booting companies, the role of towing companies, and the ability to remove vehicles.

HB 3620 – Clean-Ups, Conflict Resolution, and Timelines.

This modifies the Texas Vehicle Storage Facility Act (“TVSFA”) by addressing a number of issues that have plagued the industry. It clarifies legal terms, simplifies the title foreclosure process, and eliminates conflict between the TVSFA and local contracts and ordinances. This is another bill that merits individual analysis and will be discussed in a later publication. If you have immediate questions on this regulation, you are encouraged to contact DeNovo Legal Solutions and Southwest Tow Operators.

Summary: Clarification and Clean-Up of Texas Vehicle Storage Facility Law.

HB 3622 – Conflicts of Law Resolved; Electronic Certified Mail Approved; and Tax Assessor Problems Fixed.

This is another clean-up bill that seeks to eliminate bureaucratic roadblocks in the industry. It allows the TVSFA to control over conflicting laws in the Texas Transportation Code. It permits electronic certified mail to be used when obtaining title paperwork. It eliminates the confusing “primary” lienholder language in the TVSFA in relation to the first / second notice letters. It also simplifies publication requirements when giving notice to allow electronic publication. It reduces confusion about what constitutes establishing a forwarding address for persons who have abandoned vehicles at a VSF. If you have

immediate questions on this bill and would like to know more, we encourage you to contact DeNovo Legal Solutions and Southwest Tow Operators.

Summary: Simplifies many of the more problematic procedures that VSFs must deal with when providing notice, foreclosing, and transferring title to a public sale buyer.

HB 3876 – Training License for Tow Operators Repealed.

This bill repeals the Texas Department of Licensing and Regulation’s (“Department”) ability to issue tow operator training licenses.

Summary: Removes the ability of a person to obtain a training license.

HB 3877 – Elimination of Licensing Requirement for Consent Tow Operators.

This bill seeks to completely eliminate the need for a license with the Department if a person is only performing consent tows. Specifically, this bill would eliminate the portion of the TTBA that currently requires a person performing consent tows to be licensed with the Department. This would reduce the number of tow operator licenses in Texas from three (IM, PP, and CT) to two (IM and PP). This bill does

Call Us Today at [\(866\) 338-7511](tel:8663387511) to Learn about our Towing & Storage Legal Care Plans!

© 2017 - DeNovo Legal Solutions, LLC – www.texastowing.legal

not eliminate the cab card requirements and insurance requirements under the TTBA.

Summary: Eliminates consent tow license, retains all insurance and cab card requirements for trucks used to perform consent tows.

HB 4120 – Clarifying when a “Day” Begins for purposes of Assessing Storage Fees.

This bill removes confusing language that could lead to difficulty in calculating when a “day” has passed for purposes of imposing a daily storage fee. This bill would allow VSFs to assess a storage fee for the first day beginning on the time that occurs 24 hours after the vehicle is towed to the VSF. It also prohibits a fee from being charged on a vehicle that is located on the VSF for less than 24 hours.

Summary: Simplifies the language of the TTBA and gives a specific time applicable to each vehicle on which a storage fee may be charged.

HB 4126 – VSF Sign Regulation to be set by the Commission.

This bill proposes that the Commission, rather than the legislature, be responsible for setting signage requirements at VSFs and for modifying the

signage requirements. It would provide greater flexibility in updating signage requirements by not restricting the law to what is set by the legislature every two years.

Summary: Removes VSF sign regulation from the TVSFA and places it within the regulatory authority of the Commission.

HB 4127 – Elimination of Risk-Based Inspections by TDLR.

This bill removes risk-based inspections for vehicle storage facilities. It also repeals the consideration factors that go into determining whether to conduct risk-based inspections. While TDLR is not currently utilizing its power to conduct risk-based inspections, this bill would eliminate the possibility of imposing future risk-based inspections.

Summary: No more risk based inspections by TDLR.

SB 1501 – Sister Bill to HB 3306.

This is a similar bill to HB 3306. Please see the discussion of that bill in the publication to follow.

SB 1762 – Education Code to Govern Tows from Institutions of Higher Education.

This bill removes the TTBA’s regulation of towing and booting of vehicles located on property belonging to public institutions of higher education. It would create separate rules for removing, storing, and booting vehicles that are located on those properties. This bill would essentially permit public institutions of higher education to create their own unique towing, booting, and storage laws through the adoption of rules and regulations by those institutions.

Summary: Creates a separate set of towing, booting, and storage laws for public institutions of higher education.

Continued on next page...

Call Us Today at [\(866\) 338-7511](tel:8663387511) to Learn about our Towing & Storage Legal Care Plans!

Bullet Points on Legislative Update



- **Increased Regulation** – It appears that there are several industry groups that believe the towing and storage industry needs additional oversight. That means more involvement from the state, the county, and cities in your operations.
- **Increased Penalties, Longer Filing Deadlines** – The additional regulations that are proposed by several of the bills discussed in this update would impose severe burdens on private property owners as well as private property towing companies. This means more lawsuits, more tow hearings, and more potential violations with the state.
- **Some Clarifications in the Law** – DeNovo Legal and Southwest Tow Operators have worked to clarify and fix many of the problems that currently exist in laws affecting the industry. However, your involvement and your support is necessary to get those bills pushed through.
- **Few Bills in Favor of the Industry** – While Southwest Tow Operators and DeNovo Legal have worked to fix the broken regulatory system, it has been an uphill battle and it is far from over. We invite you to become a member of DeNovo Legal so that you can join the fight and protect your business.

SB 2065 – Sister Bill to HB 3306.

SB 2115 – Increased Restrictions on Private Property Tows and Rates.

This bill proposes that the Commission be restricted to the “national average fee” for a private property towing rate. It also requires the commission to limit the fee for booting to the “national average fee.” This bill adds additional restrictions on private property tows by prohibiting a tow of a vehicle that has been located on a property for less than 30 minutes. This bill permits parking facility owners to authorize the removal of vehicles located on the property for less than an hour in only limited circumstances, such as when parking in a disabled parking space or blocking a fire lane. Additionally, this bill prohibits a

towing company from removing a vehicle unless the parking facility owner requests the removal while physically present on the parking facility at the time the vehicle is towed or booted. It also requires that the towing operator take at least one photograph of the vehicle showing its location and includes a time stamp on the photograph. This bill also contains a “no spotters” provision that would make it a violation to compensate anyone who is not licensed under the TTBA for monitoring a parking facility or notifying the towing company of unauthorized vehicles.

Summary: More regulation, more difficult private property tows, and more potential violations with TDLR.



AFFORDABLE LEGAL CARE FOR THE TOWING & STORAGE INDUSTRY

(866) 338-7511

1101 NAVASOTA STREET
SUITE 1
AUSTIN, TX 78702
WWW.TEXASTOWING.LEGAL

Call Us Today at **(866) 338-7511** to Learn about our Towing & Storage Legal Care Plans!

DeNovo Legal

AFFORDABLE LEGAL CARE FOR THE TOWING & STORAGE INDUSTRY

(866) 338-7511

1101 NAVASOTA STREET

SUITE 1

AUSTIN, TX 78702

WWW.TEXASTOWING.LEGAL

Call Us Today at [\(866\) 338-7511](tel:(866)338-7511) to Learn about our Towing & Storage Legal Care Plans!

© 2017 - DeNovo Legal Solutions, LLC - www.texastowing.legal

Page 9 of 9