



## Tow Hearings Harris County Justice Courts

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### Introduction

This information is furnished to provide basic information relative to the law governing actions brought in the Harris County Justice Courts. The Harris County Justices of the Peace and the Clerks of the Harris County Justice Courts are not allowed to give legal advice. You are urged to review the applicable laws and to consult an attorney of your choice for further information or answers to specific legal questions.

The Harris County Justices of the Peace have promulgated Local Rules. You may view the Local Rules at each Justice Court or online at <http://www.jp.hctx.net/>.

Information about each Harris County Justice Court may be accessed from the Justice Courts' website at <http://www.jp.hctx.net/>.

***Disclaimer:*** *The law is constantly changing and there may be times when the information in this packet will not be current. This packet is provided for general informational purposes only and is not intended as legal advice. This information is not a comprehensive treatment of the subject and is not a substitute for advice from an attorney.*

*It is not possible to include information sufficient to meet all facts and circumstances and you are urged to consult with an attorney. Every effort has been made to set out information accurately, but the Justice Courts do not warrant the reliability or appropriateness of the information for a particular purpose and do not assume liability for any consequences resulting from your reliance on the information presented.*

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## Instructions for Requesting a Tow or Boot Hearing

The owner or operator of a vehicle that has been removed (towed) and placed in a vehicle storage facility without consent of the owner or operator of the vehicle, or booted without 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 of the vehicle. Any Justice Court in the county in which the vehicle was towed or booted may hear the case; however, the Harris County Justice Courts have enacted a local rule to govern the filing of these hearings.

### **Local Rule 2.3.3. Rights of Owners and Operators of Stored Vehicles to Hearing**

All written requests for hearings under Chapter 2308 of the Texas Occupations Code to determine whether probable cause existed for the removal and placement of a vehicle in a vehicle storage facility following the vehicle's removal without the consent of the owner or operator, or for the booting of a vehicle without the consent of the owner or operator of the vehicle, shall be filed in a Justice Court in Precinct 2, 3, 6, or 8.

Requests for hearing must be accompanied by the filing fee required by law.

In the event that such requests for hearings are presented for filing in any other Justice of the Peace Court, that Justice of the Peace shall immediately direct the filing and all fees to a Justice Court in Precinct 2, 3, 6, or 8 for docketing.

*Adopted August 2, 2005*

*Amended November 6, 2013*

*Amended November 10, 2015*

*Amended November 15, 2017*

*Amended November 9, 2021*

Pursuant to this local rule, a person entitled to request a hearing must deliver [a written request](#) for the hearing to a Harris County Justice Court in Precinct 2, 3, 6, or 8. [A request form is available](#) on the Harris County Justice Courts website.

The Request for Hearing form must be delivered before the 14th day after the date the vehicle was removed and placed in the vehicle storage facility or booted (not counting Saturdays, Sundays and legal holidays), or the right to a hearing is waived. The Request for Hearing form must be completed with the specified information.

**A filing fee of \$54 must be paid at the time of filing the request for hearing** (\$21 state consolidated civil filing fee and \$33 local consolidated civil filing fee). **The fee must be paid to the Justice of the Peace at the time of filing.** Contact the court in which you intend to file for more information in the type of payment accepted.

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**The Justice Courts in which a Request for Hearing may be filed are:**

Precinct 2	Hon. Jo Ann Delgado Justice of the Peace Precinct 2 Place 1 10851 Scarsdale, Ste 500 Houston, TX 77089 (281) 481-9630	Hon. Dolores Lozano Justice of the Peace Precinct 2 Place 2 101 S Richey, Ste B Pasadena, TX 77506 (713) 274-6100
Precinct 3	Hon. Joe Stephens Justice of the Peace Precinct 3 Place 1 14350 Wallisville Rd, Ste 102 Houston, TX 77049 (713) 274-0760	Hon. Lucia Bates Justice of the Peace Precinct 3 Place 2 701 W Baker Rd Baytown, TX 77521 (281) 427-7449
Precinct 6	Hon. Victor Treviño III Justice of the Peace Precinct 6 Place 1 333 Lockwood Houston, TX 77011 (713) 274-3985	Hon. Angela D. Rodriguez Justice of the Peace Precinct 6 Place 2 1001 SSGT Macario Garcia Houston, TX 77011 (713) 921-6141
Precinct 8	Hon. Holly Williamson Justice of the Peace Precinct 8 Place 1 7330 Spencer Hwy Pasadena, TX 77505 (281) 479-6900	Hon. Louie Ditta Justice of the Peace Precinct 8 Place 2 16603 Buccaneer Houston, TX 77062 (281) 488-8780

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# Texas Towing and Booting Act

## Introduction

This information is furnished to provide basic information relative to the laws governing the removal of unauthorized vehicles from parking facilities or public roadways and the rights of owners and operators of vehicles that have been towed or booted. The Harris County Justices of the Peace and the Clerks of the Harris County Justice of the Peace Courts are not allowed to give legal advice. You are urged to review the applicable laws and to consult an attorney of your choice for further information or answers to specific legal questions.

## Chapter 2308, Texas Occupations Code: Definitions

“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 moved.

“Booting company” means a person that controls, installs, or directs the installation and removal of one or more boots.

“Boot operator” means an individual who installs or removes a boot on or from a vehicle.

“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.

“Drag race” means the operation of: (A) two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other; or (B) one or more vehicles over a common selected course, from the same place to the same place, for the purpose of comparing the relative speeds or power of acceleration of the vehicle or vehicles in a specified distance or time. (*Sec., 545.420 Texas Transportation Code*)

“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.

“Non-consent tow” means any tow of a motor vehicle in which the tow truck is not summoned by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term includes a tow of a motor vehicle in which the tow truck is summoned because of a traffic accident or to a traffic incident, and a tow of a vehicle authorized by a parking facility owner without the consent of the owner or operator of the vehicle.

“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

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roadway's drainage way or the curb of the roadway, whichever is farther from the facility's property line.

“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.

“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 over assigned or unassigned parking areas; or (C) a property owner having an exclusive right under a dedicatory instrument to use a parking space.

“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.

“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.

“Race” means the use of one or more vehicles in an attempt to: (A) outgain or outdistance another vehicle or prevent another vehicle from passing; (B) arrive a given destination ahead of another vehicle or vehicles; or (C) test the physical stamina or endurance of an operator over a long-distance driving route. (*Sec., 545.420 Texas Transportation Code*)

“Tow truck” means a motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch, or otherwise move another motor vehicle.

“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.

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

“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.

“Vehicle owner” means a person: (A) named as the purchaser or transferee in the certificate of title issued for the vehicle; (B) in whose name the vehicle is registered 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.

“Vehicle storage facility” means a vehicle storage facility that is operated by a person who holds a license to operate the facility.

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## Unattended Vehicles on a Parking Facility

An owner or operator may not leave unattended on a parking facility a vehicle other than an emergency vehicle, that:

1. is in or obstructs a vehicular 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 in accordance with a government regulation, if applicable, or if no government regulation, by painted red curbs legibly marked “FIRE LANE – TOW AWAY ZONE” in white letters at least 3 inches tall at intervals not exceeding 50 feet;
4. does not display a license plate which includes the international symbol of access or a two-sided disabled parking placard displaying the international symbol of access for a vehicle transporting a disabled person and is parked in a space 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.

*(Sec. 2308.251, Texas Occupations Code)*

## Sign Color, Layout, and Lettering Height Requirements

Signs restricting parking must contain a bright red international towing symbol at least 4 inches in height, located on the uppermost portion of the sign or on a separate sign placed immediately above the sign as well as:

- The words “Towing and Booting Enforced,” or the information describing who may park in the parking facility and prohibiting all others, immediately below the international towing symbol;
- lettering at least 2 inches in height;
- the words “Unauthorized Vehicles Will Be Towed or Booted at Owner’s or Operator’s Expense;”
- a statement of the days and hours of towing or booting enforcement;
- a telephone number that is answered 24 hours a day;
- if required by ordinance, or if the parking facility owner chooses, the name and address of the storage facility.

*(Sec. 2308.302, Texas Occupations Code)*

## Individual Parking Restrictions in Restricted Area

If signs are properly posted, a parking facility owner may impose specific parking restrictions by installing or painting a weather-resistant sign or notice:

- on a curb, pole, post, wall, or barrier in front of a vehicle parked in the space;
- with top of the sign or notice not higher than 7 ft. above ground;
- including information showing that the space is reserved for a particular unit number, person, or type of person;

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- with letters at least 2 in. high of a contrasting color so they can be read day or night.
- (Sec. 2308.305, Texas Occupations Code)

## Removal and Storage of Unauthorized Vehicle

A parking facility owner may, *without consent*, cause a vehicle to be removed and stored at a vehicle storage facility at the vehicle owner's or operator's expense if:

1. Signs are installed on the right or left side of each driveway or curb-cut through which a vehicle can enter, facing and conspicuously visible to the driver entering the facility, and located on the parking facility at the time of towing and for the preceding 24 hours and remain installed at the time of the towing, and
  - are at least 18 inches wide and 24 inches tall,
  - contain the international symbol for towing vehicles,
  - contain a statement describing who may park in the parking facility and prohibiting all others,
  - state the words "Unauthorized Vehicles Will Be Towed at Owner's or Operator's Expense,"
  - contain a statement of the days and hours of towing enforcement,
  - contain a number, including area code, of a telephone that is answered 24 hours a day,
  - are made of weather-resistant material,
  - are permanently mounted on a pole, post, permanent wall, or permanent barrier so that the bottom edge of the sign is no lower than 5 feet and no higher than 8 feet above ground level;

Signs may also be placed:

- at the right or left side of each entrance to a designated area or group of parking spaces located on a restricted portion of the parking facility,
- or
- at the end of a restricted parking space so that the sign is in front of a vehicle that is parked in the space, with the top of the sign not higher than 7 ft. above ground;
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 owner's or operator's expense if it is not removed from an unauthorized space;
  3. *The parking facility owner gives notice* to the vehicle's owner or operator by:
    - (i) attaching a conspicuous notice to the vehicle's front windshield or, if none, to a conspicuous part of the vehicle:
      - warning that the vehicle is in a parking space in which the vehicle is not authorized to be parked,
      - describing all other unauthorized areas in the parking facility,



- advising 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
- providing a telephone number that is answered 24 hours a day;

and

(ii) mailing a notice:

- stating that the vehicle is in a space in which the vehicle is not authorized to be parked,
- describing all other unauthorized areas in the parking facility,
- advising 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
- providing a telephone number that is answered 24 hours a day,

to the owner or the vehicle by certified mail, return receipt requested, to the last address shown by the records of the Texas Department of Transportation, or the appropriate agency of another state, unless the vehicle's owner or operator leaves the vehicle in another unauthorized location as described in the notice attached to the vehicle;

or,

4. On request, the parking facility owner provides the name of the towing company and the vehicle storage facility that will be used to remove and store a vehicle that:

- is in or obstructs a vehicular aisle, entry, or exit of the parking facility;
- prevents a vehicle from exiting a parking space;
- is in or obstructs a fire lane marked in accordance with a government regulation, if applicable, or if no government regulation, by painted red curbs legibly marked "FIRE LANE--TOW AWAY ZONE" in white letters at least 3 inches tall at intervals not exceeding 50 feet;
- does not display a license plate which includes the symbol of access or a two-sided disabled parking placard displaying the international symbol of access and is parked in a space designated for the exclusive use of a vehicle transporting a disabled person;
- obstructs a gate intended for use of pedestrians or vehicles;
- obstructs pedestrian or vehicular access to an area used for a garbage or refuse receptacle;
- is in or obstructs a restricted parking area or parking space for disabled persons, or for employees or maintenance personnel;
- is in a tow away zone other than a fire lane, that is brightly painted and is marked "TOW AWAY ZONE," in contrasting letters;
- is a semitrailer, trailer or truck tractor parked without permission, or
- is leaking a fluid that presents a hazard or threat to persons or property;

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or,

- (xi) is in or obstructing a paved driveway or abutting public roadway used for entering or exiting the facility.

*(Sec. 2308.252, Texas Occupations Code)*

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

The parking facility owner may not have an unauthorized vehicle removed except:

- as provided by Chapter 2308,
- as provided by a municipal ordinance that is identical to or, without conflicting, exceeds the minimum standards of Chapter 2308,
- under the direction of a peace officer,
- under the direction of the owner or operator of the vehicle.

*(Sec. 2308.254, Texas Occupations Code)*

### **Towing Company's Authority to Remove and Store Unauthorized Vehicle**

A towing company, insured against liability for property damage, may remove and store an unauthorized vehicle, without the consent of and at the expense of the vehicle's owner or operator, only if:

1. The parking facility owner requests the removal and storage of the vehicle;

or

2. The parking facility owner has a standing written agreement with the towing company to enforce parking restrictions in the parking facility.

The towing company must have been given written verification from the parking facility owner that:

- (i) the required signs have been installed; or
- (ii) the owner or operator of the vehicle received actual notice that the vehicle will be towed if it is in or not removed from an unauthorized space; or
- (iii) the parking facility owner attached a conspicuous notice to the vehicle's front windshield, or if none, to a conspicuous part of the vehicle and mailed notice to the owner by certified mail, return receipt requested;

or on request, the parking facility owner provides the owner or operator of the vehicle the name of the towing company and vehicle storage facility that will be used to remove and store a vehicle that:

- (a) is in or obstructs a vehicular aisle, entry, or exit of the parking facility;
- (b) prevents a vehicle from exiting a parking space;
- (c) is in or obstructs a fire lane marked in accordance with a government regulation, if applicable, or if no government regulation, by painted red curbs legibly marked "FIRE LANE--TOW AWAY ZONE" in white letters at least 3 inches tall at intervals not exceeding 50 feet;

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- (d) does not display a license plate which includes the symbol of access or a two-sided disabled parking placard displaying the international symbol of access and is parked in a space designated for the exclusive use of a vehicle transporting a disabled person,

or

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

(Sec. 2308.255, Texas Occupations Code)

### **Unattended Vehicles on Parking Facility of Apartment Complex**

*Application: to a parking facility serving or adjacent to an **apartment complex** consisting of one or more units and any adjacent real property serving the complex.*

An owner or operator of a vehicle that is not an emergency vehicle may not leave unattended on a parking facility a vehicle that:

1. obstructs a gate intended for use of pedestrians or vehicles;
2. obstructs pedestrian or vehicular access to an area used for a garbage or refuse receptacle;
3. is in or obstructs a restricted parking area or parking space for disabled persons, or for employees or maintenance personnel;
4. is in a tow away zone other than a fire lane, that is brightly painted and is marked "TOW AWAY ZONE," in contrasting letters;
5. is a semi-trailer, trailer or truck tractor parked without permission;
6. is leaking a fluid that presents a hazard or threat to persons or property.

A parking facility owner may not have a vehicle removed merely because the vehicle displays:

- (i) an expired license plate or registration insignia, or
- (ii) an invalid vehicle inspection certificate,

unless there is a contract provision which requires the owner or operator of the vehicle to be given at least 10 days' written notice that the vehicle will be at the owner's or operator's expense if it is not removed from the parking facility, delivered in person, or by certified mail, return receipt requested. (Any provision of a lease entered into or renewed on or after 1-1-2004 that is in conflict with this provision is void.)

(Sec. 2308.253, Texas Occupations Code)

### **Vehicle Storage Facility's Duty to Report after Accepting Unauthorized Vehicle**

Within 2 hours after receiving a vehicle towed under Chapter 2308, the vehicle storage facility must report, by telephone, fax, or personal delivery, to the police department of the municipality in which the parking facility is located, or, to the sheriff of the county if the parking facility is located in an unincorporated area:

- a general description of the vehicle
- the license plate number, including state

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- the vehicle identification number, if ascertainable
  - the location from which the vehicle was towed
  - the name and location of the vehicle storage facility.

*(Sec. 2308.256, Texas Occupations Code)*

### **Removal of Unauthorized Vehicle from Leased Right-of-Way**

A parking facility owner or towing company may remove an unauthorized vehicle parked in a leased portion of the right-of-way of a public roadway, unless removal is prohibited by the lease, if the owner or towing company gives notice:

1. by posting the required signs; or
2. by actual notice to the owner or operator of the vehicle that the vehicle will be towed if it is in or not removed from an unauthorized space; or
3. by attaching a conspicuous notice to the vehicle's front windshield, or if none, to a conspicuous part of the vehicle and then mailing notice to the owner by certified mail, return receipt requested;

*(Sec. 2308.351, Texas Occupations Code)*

### **Removal of Unauthorized Vehicle from Area between Parking Facility and Public Roadway**

A parking facility owner or towing company may remove an unauthorized vehicle parked in 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, unless removal is prohibited by a municipal ordinance, if the owner or towing company gives notice;

1. by actual notice to the owner or operator of the vehicle that the vehicle will be towed if it is in or not removed from an unauthorized space; or
2. by attaching a conspicuous notice to the vehicle's front windshield, or if none, to a conspicuous part of the vehicle and then mailing notice to the owner by certified mail, return receipt requested;

*(Sec. 2308.352, Texas Occupations Code)*

### **Removal under Governmental Entity's Authority of Unauthorized Vehicle Parked in Right-of-Way**

A governmental entity, after posting signs prohibiting parking in the right-of-way, may remove, or contract with a towing company to remove an unauthorized vehicle parked in the right-of-way of a public roadway.

An abutting parking facility owner or a towing company may remove an unauthorized vehicle from the right-of-way after the parking facility owner has posted "No parking in R.O.W." signs:

- stating that a vehicle parked in the right-of-way may be towed at owner or operator's expense;

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- placed facing the public roadway (i) on the parking facility owner's property not more than 2 ft. from the common boundary line, and (ii) at intervals so that no point in the boundary line is less than 25 ft. from a sign.

*(Sec. 2308.353, Texas Occupations Code)*

### **Authority for Removal of Vehicle from Public Roadway**

A designated municipal employee may:

- immobilize a vehicle parked in the municipality
- remove an immobilized vehicle from a public roadway in the municipality.

If a person participates in a drag race or speed competition that results in an accident with property damage or personal injury, a peace officer must authorize the vehicle to be taken to the nearest licensed vehicle storage facility, unless the vehicle is seized as evidence.

The owner of a vehicle that is removed or stored because of a racing offense is liable for all removal and storage fees incurred and is not entitled to take possession of the vehicle until those fees are paid.

*(Sec. 545.420, Texas Transportation Code; Sec. 2308.354, Texas Occupations Code)*

### **Booting of Unauthorized Vehicle**

A parking facility owner may, without consent, install a boot on a vehicle in the parking facility if appropriate signs are located at specified locations 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. A boot operator must affix a conspicuous notice to the vehicle's front windshield or driver's side window stating:

- that the vehicle has been booted and could be damaged if the vehicle is moved;
- the date and time the boot was installed;
- the name and address of the booting company and a telephone number that is answered 24 hours a day to enable the owner or operator of the vehicle to arrange for the removal of the boot;
- the amount of the fees for the removal of the boot; and
- notice of the right to a hearing.

*(Sec. 2308.257, Texas Occupations Code)*

### **Regulation of Towing and Booting Companies and Parking Facility Owners**

A parking facility owner may not:

- accept anything of value from a towing company in connection with the removal of a vehicle from a parking facility, or from a booting company in connection booting a vehicle in a parking facility;
- have a monetary interest in a towing company that removes unauthorized vehicles from a parking facility, or in a booting company that boots vehicles for compensation in a parking facility in which the parking facility owner has an interest.

A towing company or a booting company may not:

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- give anything of value to a parking facility owner in connection with the removal from, or booting of a vehicle in, a parking facility;
  - have a monetary interest in a parking facility from which the towing company removes unauthorized vehicles, or in which the booting company installs boots on unauthorized vehicles for compensation.

A parking facility owner who legally causes the removal of an unauthorized vehicle is not liable for damages resulting from the removal or storage of the vehicle if the vehicle is removed by an insured towing company and stored by an insured storage facility.

A towing company, booting company, or parking facility owner who violates Chapter 2308 is liable for:

- damages arising from the removal or storage or booting of the vehicle; and
- towing or storage or booting fees assessed in connection with the removal or storage or booting of the vehicle;
- \$1,000 plus 3 times the amount of fees for towing, storage, or booting, if the violation was intentional, knowing, or reckless.

*(Sec. 2308.401 et seq, Texas Occupations Code)*

## **Exemptions**

These provisions do not apply to: (A) a person who, while exercising a statutory or contractual lien right with regard to a vehicle: installs or removes a boot; or controls, installs, or directs the installation and removal of one or more boots; or (B) a commercial office building owner or manager who installs or removes a boot in the building's parking facility.

*(Sec. 2308.004, Texas Occupations Code)*

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## **Rights of Owners and Operators of Stored or Booted Vehicles**

### **Subchapter J, Sec. 2308.451 et seq, Texas Occupations Code**

#### **Right of Owner or Operator of Vehicle to Hearing**

*Instructions:* The owner or operator of a vehicle that has been towed and placed in a vehicle storage facility, or which has been booted, without the consent of the vehicle's owner or operator is entitled to a hearing to determine whether probable cause existed for the tow or booting.

*(Sec. 2308.452 Texas Occupations Code)*

#### **Notice to Vehicle Owner or Operator**

When the owner or operator of a towed vehicle pays the costs of the towing and storage, or pays the costs for removing a boot, the towing company or vehicle storage facility that received the payment, or the booting company, must give the owner or operator written notice of the right to a hearing.

The vehicle storage facility must also give notice of the right to a hearing to the vehicle's registered owner and lienholder, if any, included within the written notice required when the vehicle is delivered to the vehicle storage facility.

*(Sec. 2308.454 Texas Occupations Code)*

The notice must include:

- a statement of the person's right to submit a request for a hearing in a justice court in the county from which the vehicle was towed or in which the parking facility is located if the vehicle was booted, within 14 days;
- the name, address, and telephone number of the towing company that removed the vehicle or the booting company that booted the vehicle;
- the name, address, telephone number, and county of the vehicle storage facility;
- the name, street address, 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;
- the name, address, and telephone number of each Harris County Justice Court in the county from which the vehicle was towed, or in which the parking facility that caused the vehicle to be booted is located;
- the information required to be included in a request for a hearing;
- the amount of the filing fee for the hearing;

*(Sec. 2308.455 Texas Occupations Code)*

#### **Request for Hearing in Harris County**

A written [Request for a Hearing](#) must be delivered to a Justice Court in Precinct 2, 3, 6, or 8 before the 14th day after the date the vehicle was removed and placed in a vehicle storage facility or booted, excluding Saturdays, Sundays, and legal holidays, or within 14 days from the date on which the towing company or vehicle storage facility provides the information necessary to

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complete the request for hearing. However, if no notice was given to the vehicle's owner or operator at the time of payment of the costs of towing and storage or booting, or by the vehicle storage facility on receipt of the vehicle, a written request for a hearing may be made at any time.

If no request for hearing is timely delivered, the owner or operator waives the right to a hearing.

A request for hearing must contain:

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

*(Sec. 2308.456 Texas Occupations Code)*

## **Filing Fee**

At the time of filing the request for hearing, the vehicle owner or operator must pay a fee of \$54.00 (\$21 state consolidated civil fee and \$33 local consolidated civil fee). The filing fee should be payable to the Justice of the Peace.

## **Hearing**

### *Notice*

Notification of the date, time, and place of the hearing will be given to:

- the person who requested the hearing;
- the parking facility owner or law enforcement agency that authorized the removal of the vehicle;
- the towing company;
- the vehicle storage facility in which the vehicle was placed; and
- the booting company.

### *Proof*



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At the hearing, the person who requested the hearing has the burden of proof, and the Court may allow hearsay evidence if the judge considers the evidence reliable.

### *Issues*

The issues which may be determined in a hearing are:

- Whether probable cause existed for the removal and placement of the vehicle or for the booting of the vehicle;
- Whether a towing charge or a boot removal charge imposed or collected in connection with the removal or placement or booting of the vehicle was greater than the amount authorized for non-consent tows or for booting of a vehicle.

### *Award*

The court will make written findings of fact and a conclusion of law, and may award:

- Court costs to the prevailing party;
- The reasonable cost of any photographs to an owner or operator of a vehicle who prevails;
- An amount equal to the amount that the towing charge or booting removal charge exceeded fees for non-consent tows; and,
- Reimbursement of fees paid for vehicle towing and storage or removal of a boot.

### *Appeal*

An appeal from a decision is governed by the rules of procedure applicable to civil cases filed in justice courts. No appeal bond is required.

Notify the Justice Court within twenty-one (21) days of the date of the award of an intent to appeal by filing a [Notice of Appeal](#). A transcript will be forwarded to the County Civil Courts at Law.

### *Enforcement*

If the Court finds that a person or law enforcement agency authorized the removal and storage of the vehicle with probable cause, the person who requested the hearing shall pay the costs of the removal and storage.

If the Court does not find that a person or law enforcement agency authorized the removal and storage of the vehicle, or booting, with probable cause, in the case of a tow, the towing company, vehicle storage facility, parking facility owner, or law enforcement agency that authorized the removal shall pay the costs of the removal and storage, or reimburse the owner or operator for the cost of the removal and storage paid by the owner or operator; and in the case of booting, the

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person that authorized the booting shall pay the costs of the booting, or reimburse the owner or operator for the cost of the booting.

An award may be enforced by any means available for the enforcement of a judgment for a debt.

An owner or operator of a vehicle in whose favor an award is made may submit a certified copy of a final award to the Texas Department of Licensing and Regulation, if the award is not paid before the 60<sup>th</sup> day after the date the award becomes final.

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## For More Information

**The Texas Department of Licensing and Regulation** is the state's licensing and enforcement authority of towing companies and vehicle storage facilities (VSFs) that store vehicles **without** an owner's permission (nonconsent). For information about towing companies and vehicle storage facilities, go to: <http://www.tdlr.texas.gov/towing/towing.htm>

TDLR maintains towing fee schedules for non-consent tows. For information about towing fees go to: <http://www.tdlr.texas.gov/towing/towingfaq.htm#s1>

TDLR also maintains a searchable database for information relating to towing companies and vehicle storage facilities. To find information about a specific towing company or vehicle storage facility, go to: [http://www.license.state.tx.us/tools\\_search/](http://www.license.state.tx.us/tools_search/)

**The Harris County Sheriff** regulates towing and storage of non-consent police tows in unincorporated Harris County. The Sheriff's Department also works closely with TDLR in enforcing Vehicle Storage Facility rules. To view the Harris County Wrecker Ordinance, go to: <http://www.harriscountysoc.org/documents/TOWING%20ORDINANCE-2007Amendment-11-26-07.pdf>

**The City of Houston** operates the [SAFEClear program](#) to reduce traffic congestion by towing disabled vehicles from the freeways. For information about SAFEClear, go to: <http://www.houstontx.gov/safeclear/index.html>

Click [here](#) to view the City of Houston's Ordinances governing auto wreckers and storage yards. Click [here](#) to view the City of Houston's Ordinances governing the booting of vehicles.

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## Legal Forms

DISCLAIMER: The various forms are provided for your convenience. It is not possible to include information sufficient for the circumstances of each case. You are urged to consult an attorney of your choice to review specific forms and procedures relative to your circumstances.

- [Request for Tow Hearing](http://www.jp.hctx.net/tow/RequestTowHearing.pdf) (<http://www.jp.hctx.net/tow/RequestTowHearing.pdf>)
- [Notice of Appeal](http://www.jp.hctx.net/tow/AppealNotice.pdf) (<http://www.jp.hctx.net/tow/AppealNotice.pdf>)

## Texas Statutes

- Texas Occupations Code. Chapter 2303. Vehicle Storage Facilities  
<http://www.statutes.legis.state.tx.us/Docs/OC/htm/OC.2303.htm>
- Texas Occupations Code. Chapter 2308. Vehicle Towing and Booting  
<http://www.statutes.legis.state.tx.us/Docs/OC/htm/OC.2308.htm>