

Memorandum



CITY OF DALLAS

DATE June 12, 2009

TO Members of the Economic Development Committee:
Ron Natinsky (Chair), Tennell Atkins (Vice Chair), Jerry R. Allen, Dwaine Caraway, Sheffie Kadane, Linda L. Koop, Mitchell Rasansky, Steve Salazar

SUBJECT Regulation of Vehicle Immobilization (Booting) on Private Parking Lots Briefing

Attached is the briefing for the proposed "Dallas Vehicle Immobilization (Booting) Ordinance – Chapter 48C of the Dallas City Code" that will be presented to you on June 15, 2009.

The staff proposal to regulate booting on private pay parking lots was presented to the Council's Transportation and Environment Committee originally on March 23, 2009 and again on June 1, 2009. Staff was asked to invite a limited number of parking industry and business/citizen representatives to address the Committee on this issue. These representatives have been asked to attend and be available to address your Committee on Monday.

The primary point of contention regarding the proposed regulation is staff's recommendation that parking lot operators provide a receipt for payment either from an attendant or an electronic pay station. The other option advocated by the parking industry is the use of a video audit procedure which allows enforcement personnel to check pay-by-space slot boxes for payment. Committee members asked staff how much an electronic pay station would cost. Staff has received information from EquiPark, an immobilization service provider in Houston, that they typically lease an electronic pay station for \$200 per month.

There has also been considerable discussion about the extent to which booting generates valid complaints. The proposed regulation will require that the boot notice placed on the windshield and driver-side window include information on how someone can file a complaint with the City regarding the boot. If the Council approves a "boot" regulation for private parking lots, staff will track complaints and provide a report to the Council after six months.

Please contact me if you need additional information.


Ramon F. Miguez, P.E.
Assistant City Manager

Dallas Vehicle Immobilization (Booting) Ordinance

Chapter 48C of the Dallas City Code

Briefing to the Transportation and Environment Committee

Prepared by
Transportation Regulation Program
Public Works and Transportation
June 1, 2009





Purpose of Briefing

- Proposal was originally briefed to the Committee on 3-23-09; staff was instructed to meet with stakeholders and bring back a final recommendation
- Brief the Committee on the proposed ordinance adding new Chapter 48C to the Dallas City Code – Vehicle Immobilization (Booting) Service Ordinance
- Obtain a Committee recommendation to take the recommendation forward for full Council consideration on 6-10-09



Background

- Use of immobilization, or “booting,” is a relatively new practice being employed by private pay parking lot operators to enforce payment in their lots
- Booting is being used as an alternative, or in addition, to the use of paper notices and nonconsent towing
- Booting is not currently regulated by the state or the City of Dallas – Houston passed an ordinance in September 2008 regulating booting in response to citizen complaints



Background

- There has been a rise in complaints from patrons of pay parking lots and businesses near these lots regarding the use of vehicle immobilization devices
- Without state or local regulation, there is an increased opportunity for fraudulent and predatory practices that negatively impact the public
- Staff is drafting a new Chapter 48C of the Dallas City Code to regulate vehicle immobilization (booting) service companies and operators on privately operated pay parking lots



Public Meeting

- Public meeting was held on 4-20-09 from 3-5 pm at City Hall (L1FN)
- Meeting notice:
 - Posted on City website
 - Advertised in the Dallas Morning News
 - Invitation issued via email or phone to known interested parties – industry representatives; Deep Ellum, West End, and downtown businesses



Public Meeting

- About 25 people attended
- 13 speakers included:
 - Parking lot operators – 2
 - Parking enforcement companies – 3
 - Business representatives – 6
 - Citizens – 3
- Notes from meeting included as an attachment



Public Meeting Comments

- General agreement that there was a problem that the City needed to address through regulation of the booting industry



Public Meeting Comments

- Businesses and citizens
 - Customers are blaming the restaurants and local businesses for the boots and not returning to patronize those businesses
 - Primary request was for a payment receipt so that there would be proof that someone had paid or not paid for the parking
 - Concern also expressed that \$100 fee was too high for nonpayment of a single parking charge (\$2 to \$10)



Public Meeting Comments

- Parking lot operators and enforcement companies
 - Want to continue to use an audit system in lieu of a requirement to provide a receipt
 - Electronic pay station would be too expensive for smaller parking lots
 - Star Parking wanted ability to continue to use in-house staff for booting



The Problem

- Before booting, parking lot operators primarily used paper notices with towing used as a last resort
- Booting has provided a tool for more aggressive enforcement of payment because the consequences of an error are less harsh than towing
- Unfortunately, no person is on-site to verify payment, so there is opportunity for both errors and fraudulent behavior that result in unjustified boots
- Audit procedures have been developed in an effort to overcome this deficiency, but complaints indicate that the procedures are not foolproof
- Requirement for a receipt from an electronic pay station or attendant resolves this key issue



Types of Complaints

- Patron paid
- Spaces are not well marked on the pavement and/or pay box, so patron may have put payment in the wrong slot
- Patron went to get change
- Patron was only parked there for short period of time
- Medical emergency



Parking Lot Players

- Parking patron
- Property owner
- Parking lot operator company
- Parking enforcement company
 - Booting company
 - Towing company



Examples of Parking Lot Enforcement Operations

- Does not use booting as an enforcement tool
- Uses in-house staff to do booting on a limited basis
- Contracts with a booting company to boot all first-time offenders



Does not use Booting

- Uses a paper notice to enforce nonpayment
- \$50 fee amount – reduced to \$35 if paid within three days
- Company reports that most of the paper notices are paid
- Towing is used as a last resort



Limited Booting with In-house Staff

- Uses a paper notice to enforce nonpayment
- \$50 fee amount – reduced to \$20 if paid within seven days
- Company reports that most of the paper notices are paid
- In-house staff boots vehicles for first offense on lots with electronic pay station and for second offense (first offense is unpaid) on surface lot with pay box -- \$50 boot fee plus unpaid notice fees
- Towing is used as a last resort



Contracts with Independent Boot Company

- No longer use paper notices on lots where booting is employed
- Independent booting company boots vehicles on first offense – \$100 boot fee



Parking Patron Cost Related to Enforcement Options

- Paper Notice – \$20 to \$50
- Booting – \$50 to \$100
- Towing – \$148 including storage fees and transportation costs to the storage yard



In-house Booting versus Independent Booting Company

- Proposed ordinance would not allow in-house booting for compensation
- With in-house booting, the parking operator has less incentive to be concerned about customer service – he may choose to boot as much as possible because he makes more money
- With independent booting company, the parking operator does not receive any portion of the booting fees – without the increased profit motive, he should be more concerned about customer service
- Without the controls that come thru regulation, either scenario could result in predatory practices



Electronic Pay Station is not Feasible for Small Lots

- Need for proof of payment through pay station or attendant is critical to community acceptance of booting as an enforcement tool
- Parking lot operator with multiple lots of different sizes could subsidize the installation of pay stations on smaller lots
- Customer may be willing to pay higher parking rates for the peace of mind of having a receipt for payment
- If not financially feasible, parking companies may have to limit enforcement on small lots to paper notices and/or towing



Benefits of Electronic Pay Stations

- Receipt provides patron with proof of payment
- Additional payment options: credit cards, debit cards, cash, pay by phone
- Potential for variable rates could enhance revenues
- Theft and vandalism are minimized
- Modular components make maintenance simple



30-Day Cancellation on Parking Lot Operator Lease

- Parking lot operators often have a 30-day cancellation clause on leases for properties that they don't own
- Concern was expressed that high cost of electronic pay station was a risky investment given cancellation clause
- There are options that would allow an operator to manage this risk:
 - Electronic pay stations can be leased with terms that allow for a machine to be taken back by the vendor
 - Electronic pay stations that are owned can be moved to another lot



Licensing of Companies

Proposed New Chapter 48C of the Dallas City Code

- Allow for the licensing of companies that provide vehicle booting services:
 - Review company ownership – check for any conflicts with parking lot operators
 - Check for any delinquent taxes
 - Perform criminal background checks
 - Ensure that proper amounts of commercial general liability insurance are maintained
 - Authority provided to suspend or revoke the license
 - Annual application fee – fee study is being conducted
 - Annual renewal each year prior to June 30th



Permitting of Operators

Proposed New Chapter 48C of the Dallas City Code

- Allow for the permitting of operators – individuals who place booting devices on vehicles:
 - Perform criminal background checks
 - Require operator to be employed by a licensed vehicle immobilization service company
 - Requirement that operator conspicuously display City-issued permit on the clothing of their upper body
 - Authority provided to suspend or revoke the permit
 - Annual application fee of \$15
 - Annual renewal prior to date of issuance



Service Requirements

Proposed New Chapter 48C of the Dallas City Code

- Identify service requirements for companies that provide vehicle immobilization:
 - Establish maximum rates that may be charged – \$100 fee for boot removal
 - Establish requirements for posting of signs – visible at driveway entrances and posted for at least 24 hours prior to booting
 - Must accept credit cards
 - Must be available 24 hours-a-day and 7 days-a-week to remove the immobilization device
 - Must arrive at the location within 30 minutes after notice to remove the immobilization device



Service Requirements

Proposed New Chapter 48C of the Dallas City Code

- Identify service requirements for companies that provide vehicle immobilization:
 - Prohibit vehicle immobilization except on pay parking lots where a patron is issued a receipt (showing the date, time, location, amount paid, and amount of parking time purchased) to be displayed on the dash of the parked vehicle – receipts must be dispensed by electronic pay stations installed on the parking lot and/or by a uniformed parking attendant wearing a badge or insignia issued by the parking lot
 - Written notice must be adhered to the windshield and driver-side window at time of immobilization
 - Parking lot operators would be allowed to tow or boot; if a vehicle is booted first and then towed, only the tow fee can be collected



What has Changed?

Proposed New Chapter 48C of the Dallas City Code

- Both booting and towing would be allowed
- Response time reduced from 60 minutes to 30 minutes to remove a boot
- Boot company would be able to collect outstanding parking fees for the operator
- In-house booting would be permitted provided that only outstanding parking fees are collected
- Booting notice must be adhered to the driver-side window as well as the windshield
- Amount paid and parking time purchased must be included on receipt in addition to date, time and location



State Legislative Action

- S.B. 2153 was introduced by Senator Whitmire representing the 15th Senatorial District comprised of north Houston and north Harris County
- Bill adds booting to Chapter 2308 of the Texas Occupations Code that regulates vehicle towing
- Senate: Passed out of Transportation and Homeland Security Committee on a 8-0 vote on 4-17-09 and passed by the Senate on a 31-0 vote on 4-30-09
- House: Passed out of House Transportation Committee on a 7-0 vote on 5-21-09 and passed by the House on 5-27-09
- If not vetoed by the Governor, this bill would become law and take effect on 9-1-09



Recommendation

- Committee endorsement of the proposed ordinance regulating booting on private pay parking lots; schedule for full Council consideration on 6-10-09
- Provide direction to staff to review the ordinance, develop recommendations for any needed changes, and report back to the Committee by 6-30-11 (2 years)



Appendices

- Notes from Public Meeting held on 4-20-2009
- Hawkeye Parking Audit Procedure
- Senate Bill 2153 approved by the 81st Legislature Regular Session on May 27, 2009

Public Meeting – Booting of Vehicles on Private Pay Parking Lots

April 20, 2009

The meeting was brought to order by Mr. John Brunk, Assistant Director of Public Works and Transportation. He stated that the purpose of the meeting was to hear comments regarding the use of boots, or vehicle immobilization devices, on private pay parking lots to help guide the formulation of a regulatory strategy for the City of Dallas. Mr. Brunk introduced himself and Mr. Gary Titlow, Program Manger for Transportation Regulation. Mr. Titlow provided an overview of the regulatory proposal that was presented to the Council's Transportation and Environment Committee on March 23, 2009.

Public Comments

Peter Agbate, Citizen. Passed on his initial time to speak.

Joe Martin, EquiPark of Houston. Passed on his initial time to speak.

Jeff Klundt, Hawkeye Parking Enforcement. Discussed the audit process his company uses and encouraged the City not to require parking lot operators to provide receipts. He indicated that...there is a four point audit system that is practiced daily with all of our booting events. There are several checks and balances for the auditing system utilizing paper, chalking and video to record evidence at the time of the violation. Errors do occur and one was caught and corrected during a demonstration of the process to City staff. We do everything in our power to ensure the process is clean and clear.

Erik Ward, Parking Company of America. Passed on his initial time to speak.

Cindy Chaffin, Demeter Project. Passed on her initial time to speak.

Michael Anderson, Star Parking. An independent company that is enforcing parking doesn't have an interest in that particular lot or maybe in the interest of the particular city. They are basically the executioner.

With nothing that can pass hands between a booting company and the parking company what happens in the case when we boot someone who has written an NSF check or cancels a check or a particular person has committed 25 violations? In addition to the boot fee, we try to use booting as a collection method to collect fees owed. If you have in your hand a hot check or even worse a check that has been cancelled, then you have the evidence required to boot. If there is nothing that can pass hands between the boot company and the parking company why would we even boot at all. Why don't we just call a tow truck?

We don't boot on a first offense, except on pretty rare occasions. Usually you know who you are after. There is a hot list.

The deal about the receipt, that's great, we are headed that way. But right now, it is simply not plausible. Not every lot has access to electricity, not every lot can afford one of these machines. By doing that you are going to automatically shut down a great number of parking spots. Those parking spots are probably going to be the least expensive ones. Which are the ones we need most now to alleviate parking problems. It's not going to happen on the \$10 lots. It will be in the lots where the lower income will want to park.

We at Star Parking are not going to allow a third party to boot. We use discretion, much like a first grade teacher. After being in the business, you can tell if someone is guilty or not guilty.

There is a problem here. I would urge you to examine the scope of the problem without giving a solution that is way far overboard for what we think the problem is.

Chris Confer, Premier Parking Enforcement. I believe this just went to the state level, where a lot of these things will get vetted in that process. We audit with video and written record. I believe the state level has a resolution with a tow court. This is where this is headed. Maybe you could hold off to see where that heads. I think it will be written so that each city law doesn't go against that.

Linda Rockmore, Citizen. I am representing myself and a number of others who are possibly in the same frustrating state I was when my truck was booted. There was nothing I had that could convince the parking enforcement company that I paid my money. The person I spoke with politely walked up and asked me show where I paid. He stated that all the slots around mine were empty too. That couldn't be because there were cars beside me when I parked and cars behind me. There were cars there when I was dealing with the booting. So I am here to speak toward some type of receipt. We have nothing. If they say we didn't pay, they've got us. That's when I felt a victim of this. Address some type of receipt.

I know the gentleman earlier addressed the problem of the cost of putting receipt machines to give you a receipt. But I would be more interested to see a percentage of fees are actually collected a month. How many cars are booted a month?

The person that booted my car had no paperwork. There's an audit system, ok. I think someone should be auditing every car that is booted. Review their records to see if there is a possibility that a mistake was made and automatically correct it.

The person I spoke with was a Hawkeye Parking Enforcement representative. They told me I needed to respond in two business days. I sent a certified letter and it came right back. I thought, that tells me for sure that I can't get my \$100 back. The burden to document a violation should be on the person doing the booting. If they can't give a receipt, they should write down the type car, tag number of the car, money was collected. There should be something that people should have to draw on.

I would like to get my \$100 back because I had to pay out of my unemployment check. I know the \$100 fee for booting. I was told that if I didn't pay, it would be towed and I would pay \$300. For someone on unemployment that is a death sentence right there. Regulate the \$100, but also regulate the tow not being the \$300 fee.

Jonathon Hetzel, Madison Partners. Our restaurant is being hit very hard by the car booting going on in Deep Ellum. One thing is the issue of the receipt. I office across the street from one of the lots that has a lot of parking. I have seen with my own eyes homeless people go up and fish in the pay boxes and pull out money. All the audits, all the cameras in the world will not prevent that from making a mistake. It's an imperfect system. The only way to make it a perfect system is to give customers receipts. I don't want this panel, Council and anyone to be swayed because a group comes up and says they don't boot first time offenders. There are a lot of companies in the City and not all of them are professional about it. One company can show you the auditing system they have, but do you think all the other companies are doing the same thing on a daily basis. I know Hawkeye goes through the lot because I've seen them, but it is still an imperfect system. I don't think stalling and waiting on the state to do something or any of those things is going to solve any problems. Get out ahead of this and start chipping away at it.

John Little, Angry Dog Restaurant. This booting is hurting us bad. Customers blame the businesses. If you Google the Angry Dog or Baker's Ribs, you will quickly find reviews online that ditch our restaurants. It affects our revenue because they are not coming back to our restaurants. Customers are mad because they paid \$100 to park and they are blaming me. They are trashing our restaurants. Our staff is being abused by customers who think we are making money from the lots. We're getting killed. Our own employees are getting booted. An employee got booted while his parking pass was on the dash. Pass was issued by Hawkeye and Parking Company of America. The employee that booted him thought it was a Baylor pass. She was new and didn't know what it looked like. He got booted. We have video of an employee putting money into the pay box. We have video of the booting. We have video of them going to their car at 4:00 am on Commerce. Bad idea, employee safety.

There are no options. You get booted you either pay or you go on. I get a ticket at a parking meter I can come down here and argue about whether the meter was working or what time of day it was. There is no recourse in this process, that's wrong.

The fee is wrong. The city charges me \$20 if I overstay the parking time. \$100 fee for a \$2 parking fee is just too high. Receipts are essential. \$25 if the receipt is not properly displayed is the same problem. How does the customer prove where their receipt was? Unless you're walking around with a camera with a date stamp taking a picture of your receipt, you're still in the same spot. You have a receipt, you paid your money, they boot you for \$25, and you're stuck. You pay \$25 or you stay booted. That's not going to work.

When this started, the first thing we did is put signs in our windows warning every customer walking in the door to pay the parking lot. We still get customers getting booted. Some say they paid, some don't. I know my employees pay. We installed video cameras on both lots that give video 24 hours a day. There's no way to sit and watch 24 hours of video a day to make sure each one of the processes is right. So your audit is really on the side of the operator. You can't audit the customer. Because that would show when the customer showed up, when they put money in the slot. The only way a customer has a chance is if the customer has a receipt issued upon payment. In order to show our employee paying, getting booted and getting the boot removed, 8 to 9 hours of video had to be watched. Do you want to do that every day at every lot? That is the only way to ensure that the audit process is actually being used or abused. Otherwise, it's a one sided deal. The parking company has all the cards. You should not penalize the customer for not having a receipt in the exact right hand of the window or having it hanging from the windshield. If they got a receipt, they paid; they ought not to get booted.

We heard something from Mr. Anderson about hot checks. There is a perfectly good way to deal with hot checks in the City of Dallas. You call the police and the District Attorney. They are happy to prosecute hot check writers.

Hawkeye boots first time offenders; first time offenders won't be back. I don't begrudge the parking folks if someone is constantly refusing to pay. Fine, boot them. I'm all for it. I've seen commentary in the parking company's letter to the Council that it is like people walking out on their checks at a restaurant. Well, if I could shackle people to a table until they paid their check, it would be about the same thing. They shackle cars to the lots until they get their \$100. I can't shackle anyone to a table. If they walk their check, they walk their check, unless someone tackles them on the sidewalk.

It's a bad idea, too expensive and it's hurting the heck out of businesses in Deep Ellum.

Peter Agbate. City employee who has worked at the library about 14 years. I had a bad experience with Hawkeye last month. I arrived on a Tuesday evening. I forgot to get change for the parking lot. I have walked into Subway with cash to get change. They told me I had to order something to get change for a \$50. I ordered something and they said it wasn't enough to get change for parking. I had to order a meal. I ordered a meal and sat down to eat. When I went out, I saw the guys from Hawkeye getting in their cars. I ran and said here's my money; I went in there to get change. You don't need to boot me. They told me to go and call the office. I pleaded with them and they drove off. I went and called the office. They dispatched somebody. It took forever for them to get there. When they arrived, I tried to make my case to no avail. She told me that if I wanted to dispute it, I needed to call and complain. In the morning, I tried to call Jeff (with Hawkeye Parking). I called and called until a lady answered and asked what I was calling about. I told her I wanted to speak to the manager. She said Jeff was unavailable and asked about my problem. I tried to state my case. She said to put it in writing, so I wrote my case and faxed it in. I kept trying to reach Jeff. I told him I faxed in my paperwork and he said okay. I never got any response until the end of

March. As far as I'm concerned it is not democratic. It's Gestapo tactics. This is not a third world country. I've been parking there, and I don't have any prior record or bad experience. Nobody asks if you are first time offender. They charge the person \$100 on the spot. It's undemocratic. I was so enraged that my colleagues noticed.

I was surprised when a colleague of mine informed me that there was a meeting regarding booting. I thought it was an opportune time to come and give my comments. They should give me a ticket. Let me pay a ticket. I was told that if I had a credit card I could pay with it or it would be towed. I showed them my wallet and everything else was still on the seat. I wouldn't have left this on the seat if I wasn't coming back. She didn't care. She allowed me to retrieve my credit card from my car and give it to her.

I hope you will take action.

Susan Reese, Madison Partners. Our office is just across the street from a parking lot that is used by employees from our offices, the Twisted Root and other restaurants. I appreciate the complexity of the problem. I don't blame the parking companies for making money. I don't blame the booting company for making money.

The receipt issue is the biggest issue. I have a window that looks out over that parking lot. Strange things happen in a parking lot. Sometimes I will run down and explain to somebody they better put some money in before they are booted. Sometimes I will put money in for them while they get change. I drive a little red bug and I was booted on two tires. You can pick that car up and move it anywhere. They removed the boots because it was a mistake. The reason I bring that up is that I think that mistakes do happen and without some kind of receipt it's really difficult to prove you paid. We just got rid of the really bad element in Deep Ellum. Customers are not willing to come have a \$7 hamburger and then have to pay \$100 for booting. They won't come back.

If the booting companies are as good at auditing as they say, they should be as good at determining if this is the first time I've ever seen this vehicle in the lot. If it is the first time, they should have some kind of sticker put on the windshield with a polite warning. Not just a mean warning, but a polite warning. Remind people that this is a pay parking lot.

I like knowing that there is some kind of hot list of offenders that is really accurate. There are people that are abusing parking lots day in and day out. More caution needs to be taken. Receipts are essential.

Tony Street, Y.O. Ranch Steakhouse. This booting is devastating for the West End. I know exactly what these people are going through. We got rid of the booting around my restaurant. Almost daily I was calling parking lot operators/owners, complaining about this booting. A whole lot of the booting was unjustified. I know that the parking company people are good people. It's the third party people that I think are causing the problems. On several occasions, there have been unjustified booting of people actually paying and getting booted. I know this because my brother got booted and I asked if he

had seen proof that he didn't pay. When he questioned the proof, they had none and took off the boot. It happens this way all the time.

These people work on commission and this is a complete racket. Thank goodness we have gotten rid of most of it in the West End. We have enough challenges as it is without having to put up with their stuff. You get receipts anywhere in the United States. You've got to have proof. People come into my restaurant and ask for change. I will give it to them myself. Sometimes before they could get back to the lot with the change there was already a boot on the vehicle. There is a problem. Please do something.

Barry Annino, President of Deep Ellum Foundation. You can have a private lot, but when you become a commercial lot it changes things. You have a bigger responsibility. As it is now, you are required to have landscaping and certain types of fencing and other things to get your certificate of occupancy to become a commercial lot. Some people look at it as a private lot. I think every time you do you validate or give those people ability to boot on that lot. I think that is something you should look as to what is in the public's best interest. I appreciate your action.

Jason Bosso, Twisted Root Burger Company. I am chef/owner of several businesses on Commerce. I think we are very big asset to Dallas and Deep Ellum. The bootings are causing problems for restaurant owners. Customers are saying they will never come back after paying \$100 to eat a \$10 cheeseburger. These guys are biting the hands that feed them. My customers fill their lots every lunch and dinner. They are hurting my business which in turn hurts their business. I think the greed over this \$100 is overcoming some common sense. One specific thing that bothers me is what happens to my customers. I usually have very long lines and some of our customers will come in to ask for change, then come back out and their car is booted – within that 5 to 10 minutes. There is no standard for time allowance to pay the box and people are very upset. There's no receipt or any proof that they have put money in the box. My partner parks in the same spot six days a week and pays every single time and he's been booted three times with no proof that he didn't put his money in or that they didn't see the money. Luckily they know who we are and have reimbursed money knowing full well they cheated the wrong person. Receipts are necessary.

Joe Martin, Equipark of Houston. Passed on his turn to speak.

Erik Ward, Parking Company of America. I appreciate your time today. I am on board with crafting an ordinance that works for everybody. I am not commenting on specific things that have been said, but do have some comments on the draft. The requirement for booting authorizations needs to be a blanket authorization between a company and whatever booting operator with addresses listed where they are allowed to boot and where they are not allowed to boot on a particular property. To try and authorize each individual booting is too onerous.

From the standpoint of the fee, the \$100 fee that is being proposed is currently being used by the booting company we employ. I believe that is fair given the cost for

customers to retrieve their vehicles from tow lots should we have the vehicle removed for nonpayment.

From the standpoint of the equipment, the video audit process that we are currently using shows clearly the payment in the slot or nonpayment in the slot. I would be in favor of some either/or scenario that allows for specific guidelines for auditing or to provide a receipt from an attendant or an automatic payment machine.

Cindy Chaffin, Demeter Project. I have had a co-worker go to get change to pay on a lot and when they came back in less than 10 minutes, the vehicle was booted. It's very frustrating to have your vehicle booted. 25 year old and 75 year old people get their vehicles booted frequently and say that they will never come back to Deep Ellum. Something needs to be done. Signage is needed. Signs that are visible in dark parking lots. If you go to places like the Angry Dog and others they have signs warning their customers. Yet there are little bitty signs to warn citizens. We want people down here.

Joe Martin, EquiPark of Houston. I previously served on a committee for the City of Houston and helped to write the ordinance for the booting industry. I recently resigned and started my own booting company. Yes, its frustrating to have your vehicle booted. I've been towed three times in the last six months. What we determined in Houston is that booting is a good alternative to towing. It's about half the price. Your car does not get moved off the parking lot. You don't have near the anxiety of worrying about what happened to your car -- was it stolen or was it towed, and you are on your way pretty quick. Granted, no one wants to pay \$100 but you only owe the \$100 if you didn't pay. At the end of the day we are talking about enforcement of violations. If you violate you have to pay. I offered my comments to the process you guys are going through here in Dallas. We did basically the same thing about a year ago in Houston. We heard a lot of the things you are hearing today while going through the process. I will say it's a double edged sword. It is indeed about half the price but it is much more effective to catch people that don't pay. Booting enforcement officers are very thorough in what they do. I speak on behalf of our company. Our goal is 100% enforcement, not at 101% or 110%, but 100%. That means everybody pays, no one gets away free. Also, nobody gets booted that paid.

I respect the challenge you guys are going through and you've got a little bit more to go through I imagine. Hopefully everything comes out okay.

Cindy Chaffin, Marketing for Crying Coffee House. I want to say that I support the requirement for a receipt. That's really a bad thing when there's no way to prove you've paid. It's frustrating when you can't prove it.

John Little, Angry Dog. People have been booting for the last four to five months, every day without fail. They're doing what they want. Two things really trouble me about this. One is that the lots near our business have a rate for prior to 6:00 p.m. and one for after 6:00 p.m. We get folks who paid at 4:00 p.m. and are still there until 7:00 p.m. or 8:00 p.m. and get booted. That's just wrong. There is nothing on the lot that tells you that

will happen. The other thing is sort of a fundamental problem. We hear about this from the parking companies; that these are fines and this is enforcement. Fines and enforcement are problems of the police and civil governments. Fines are not the province of private property. Fines are levied by government and enforced by governmental entities. This is a contract. They agree to give me a place to put my car for \$3. To enforce that contract, if I don't pay, they charge \$100. And they get to enforce it without any argument. I submit that this is the only contract like that in the country. You can't do that on any other contract, any other business anywhere. Enforce your contract and get 30 times the contract price. That's what they are doing. That's wrong. We should not talk about this in terms of enforcement and fines. This is a civil grievance between a customer and a vendor and the vendor has all the cards.

Tony Street, Y.O. Ranch Steakhouse. In the West End, most of our business is based on visitors and out-of-towners. This type of activity is the last thing we need for customers to remember. One Texas/OU weekend we had about 15 to 20 kids who parked and got booted. I didn't believe them at first that they had paid, then I realized they could be telling the truth. Those kids had no money to get back to Oklahoma. Some would come in and ask to wash dishes to earn money to go home. We have little old ladies from Cleburne come in and ask for money to go out and pay the box. Their cars are already being booted when they return with the money. What kind of impression does this leave them with about Dallas?

Michael Anderson, Star Parking. This is good, airing things out. I mentioned the receipt machines. You have some lots that cannot afford them. We came up with a way on those inexpensive lots or remote lots. We boot after three unpaid offenses. They get certified mail and by that time they kind of know. As a parking company I think we can afford that because you're talking about the cheaper parking. They are usually not event parkers, but employees walking to work. On the other hand, I like the idea of receipts on the more expensive lots. They can afford the machine. Therefore, you can have one that uses credit cards or gives change.

I'm not for the third party enforcement company, because I don't want someone doing that for us. We spend a great amount of money hiring checkers and buying their uniforms. They go check the lots. We pay their salary, health insurance, etc. They have jobs. They are loyal to their jobs. When you hire booting companies, you fire your employees. That's part of what you get. You may not be getting money, but you are saving money by hiring your own checkers.

Lastly, I really believe in these stories. They are out there. Luckily, we get to use our discretion. There is a tough job to do because I think the unwarranted booting should be stopped. On the other hand, many people want to play games, giving us Monopoly money, writing hot checks, people trading their monthly passes around. There has to be checks and balances, but one of the things we are against is any third party company booting cars. Our booting is pretty rare, less than one a day, and we operate 8000 to 9000 spaces.

John Hetzel, Madison Partners. We wouldn't be so adamant about receipts if they weren't booting first time offenders. That's what is happening with Hawkeye Parking. Anything can go wrong the first time, the homeless people fishing it out, paying the wrong slot because the boxes are not perfect, gone to get change. We need to have either a receipt requirement or the first time offender part. With the companies as it is now, it is completely unworkable.

Linda Rockmore, Citizen. I'm only asking for checks and balances. I appreciate this effort. The City is trying to move forward to regulate this a little bit more, so that the frustration will end. I didn't drive my truck downtown and I will never drive my truck downtown again, regardless if I am in a \$2 parking lot or one of the expensive lots with an attendant taking the money. It doesn't matter. What matters is we are victimized because we have nothing to prove that we did pay. That's why I came today. The person that booted my car showed me no proof other than saying that he checked and there was no money in any of these slots around your car. That was nothing. Then when I went through and did what they said do. I am a first time offender. I put it in writing and I get a returned certified letter back. The address is correct, but it was returned to me. We need something in hand, even if it's at the cost of the people that are collecting the money, they have to provide something for us to at least win a battle if there's a question about whether we honestly paid or not. People will make up stories and try to talk their way out of anything. But when a citizen of Dallas has paid their fees, they've done their part. To go back and be fined for doing their part. We just need checks and balances.

Jeff Klundt, Hawkeye Parking. I would like to help Linda with her dispute. There has been an ownership and address change with Hawkeye Parking that probably resulted in her returned letter. We do notify people that if they have been booted, they can dispute the charge. We review the video to determine whether there was payment or not. We do invite them to use our fax line submit their dispute.

Erik Ward, Parking Company of America. I think everybody in the room is kind of moving towards the same thing. We're all looking for a code that works for everybody. I think there is just a disagreement on the specific language. I think it should be regulated just like the towing companies are regulated, just like the taxicab companies are regulated, just like the valet companies are regulated. There are just some discrepancies on how the regulations should be written.

The meeting was closed at 5:00 p.m.

HAWKEYE PARKING AUDIT PROCEDURE

Processes and Procedures

Parking Enforcement a thorough four-point audit system.

1. Upon arrival to the honor box(es) on a parking lot, an auditor opens the door at the rear or the front of the box. Inside, numbered bins corresponding with the numbers at the front of the box are exposed for the auditor to view. Note, any money inside the box cannot physically be touched or handled by the auditor due to plex-glass shield riveted to the frame. The auditor marks all payments in the bins on a numbered meter sheet corresponding to that given parking lot's numbered spaces.
2. The auditor re-examines the box and all bins for any double payments in any given bin. These payments are notated on the meter sheets as well.
3. Walkthrough of the lot. Along with the meter sheet, the auditor walks through every portion of the parking lot (small and large) and places a chalk mark on one tire of every vehicle that has proper parking fee (lot rate) indicated on the meter sheet. If a vehicle is found that does not have a payment showing on the sheet, it means one of two things. Either that vehicle has a monthly parking permit displayed hanging on the rear-view mirror, or it is a parking violator. If the vehicle has a proper parking permit properly displayed, the meter sheet is notated accordingly, and one of the tires is chalked on that particular vehicle. If there is no payment in the bin for that space, and there is no proper monthly parking permit, this is indicative of a non-payment violation and justification for vehicle immobilization as a means of enforcement. The meter sheet is marked accordingly for the boot as well.
4. Once all vehicles in the parking lot are checked in and chalked, the auditor re-examines the box once again to verify his findings.

The Vehicle Immobilization Process:

1. Two boots are used on every vehicle. A warning sticker, vivid in color and clear in print, is placed conspicuously on the driver-side window. The stickers heed warning to not attempt to move the vehicle, and they clearly indicate the fine amount and a phone number to arrange for the removal of the boots.
2. Once the boots have been placed on the tires and lock-secured, the auditor goes back to the appropriate honor box to document the immobilization with video.
3. The video is a process within a process. All video is streaming from step to step. We go first showing which box (or which lot) is being examined/audited. Video then streams to the large signage attached to the top of the box showing the daily or weekend parking rate. From there video goes straight to the bin that is empty or has inadequate payment (i.e. the booted vehicle's space number). Surrounding spaces are video-taped as well. From there, the auditor moves to the front of the honor box and videos the numbered-space in question. They push the slot with the key attached to the side of the box in an effort to show that the slot is clear. The auditor goes back again to the other side of the box and confirms with video that indeed that bin is empty. Still streaming in video the auditor then walks to the immobilized vehicle and videos the space number painted on the ground surface, the license plate number of the vehicle, the two boots placed on separate tires, the warning sticker, and the dash board and mirror of the vehicle. Video is complete as is the process.

Removal of Immobilization Devices:

When a person calls in to Hawkeye Parking Enforcement to notify of their vehicle immobilization, a dispatcher asks for the last three digits of the person's license plate. The person is notified of their fine and of accepted payment methods. A manager is dispatched to the appropriate parking lot. During the normal course of business, the response times do vary and are usually in 20 minutes or less from the time the person called into dispatch. Upon arrival, the manager greets the person, collects a payment in the amount of \$100.00 for the parking fine, and removes the boots.

1-1 By: Whitmire S.B. No. 2153
1-2 (In the Senate - Filed March 13, 2009; March 31, 2009, read
1-3 first time and referred to Committee on Transportation and Homeland
1-4 Security; April 17, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
1-6 April 17, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 2153 By: Huffman

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the booting of vehicles by private entities in parking
1-11 facilities; providing penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. The heading to Chapter 2308, Occupations Code,
1-14 is amended to read as follows:

1-15 CHAPTER 2308. VEHICLE TOWING AND BOOTING

1-16 SECTION 2. Section 2308.001, Occupations Code, is amended
1-17 to read as follows:

1-18 Sec. 2308.001. SHORT TITLE. This chapter may be cited as
1-19 the Texas Towing and Booting Act.

1-20 SECTION 3. Section 2308.002, Occupations Code, is amended
1-21 by amending Subdivision (1) and adding Subdivisions (1-a), (1-b),
1-22 and (1-c) to read as follows:

1-23 (1) "Advisory board" means the Towing, ~~and~~ Storage,
1-24 and Booting Advisory Board.

1-25 (1-a) "Boot" means a lockable road wheel clamp or
1-26 similar vehicle immobilization device that is designed to
1-27 immobilize a parked vehicle and prevent its movement until the
1-28 device is unlocked or removed.

1-29 (1-b) "Booting company" means a person that controls,
1-30 installs, or directs the installation and removal of one or more
1-31 boots.

1-32 (1-c) "Boot operator" means an individual who installs
1-33 or removes a boot on or from a vehicle.

1-34 SECTION 4. Subchapter A, Chapter 2308, Occupations Code, is
1-35 amended by adding Section 2308.004 to read as follows:

1-36 Sec. 2308.004. EXEMPTION. This chapter does not apply to a
1-37 person who, while exercising a statutory or contractual lien right
1-38 with regard to a vehicle:

1-39 (1) installs or removes a boot; or

1-40 (2) controls, installs, or directs the installation
1-41 and removal of one or more boots.

1-42 SECTION 5. The heading to Section 2308.051, Occupations
1-43 Code, is amended to read as follows:

1-44 Sec. 2308.051. TOWING, ~~AND~~ STORAGE, AND BOOTING ADVISORY
1-45 BOARD.

1-46 SECTION 6. Subsection (a), Section 2308.051, Occupations
1-47 Code, is amended to read as follows:

1-48 (a) The advisory board consists of the following members
1-49 appointed by the presiding officer of the commission with the
1-50 approval of the commission:

1-51 (1) one representative of a towing company operating
1-52 in a county with a population of less than one million;

1-53 (2) one representative of a towing company operating
1-54 in a county with a population of one million or more;

1-55 (3) one owner of a vehicle storage facility located in
1-56 a county with a population of less than one million;

1-57 (4) one owner of a vehicle storage facility located in
1-58 a county with a population of one million or more;

1-59 (5) one parking facility owner;

1-60 (6) one law enforcement officer from a county with a
1-61 population of less than one million;

1-62 (7) one law enforcement officer from a county with a
1-63 population of one million or more; ~~and~~

2-1 (8) one representative of property and casualty
2-2 insurers who write automobile insurance in this state; and
2-3 (9) one representative of a booting company.

2-4 SECTION 7. Subsection (a), Section 2308.057, Occupations
2-5 Code, is amended to read as follows:

2-6 (a) The commission shall adopt rules for permitting tow
2-7 trucks and licensing towing operators, ~~and~~ towing companies,
2-8 booting companies, and boot operators.

2-9 SECTION 8. Section 2308.151, Occupations Code, is amended
2-10 to read as follows:

2-11 Sec. 2308.151. LICENSE REQUIRED. Unless the person holds
2-12 an appropriate license under this subchapter, a person may not:

- 2-13 (1) perform towing operations; ~~or~~
- 2-14 (2) operate a towing company;
- 2-15 (3) perform booting operations; or
- 2-16 (4) operate a booting company.

2-17 SECTION 9. Subchapter D, Chapter 2308, Occupations Code, is
2-18 amended by adding Sections 2308.1555 and 2308.1556 to read as
2-19 follows:

2-20 Sec. 2308.1555. BOOT OPERATOR'S LICENSE. (a) A boot
2-21 operator's license is required to install or remove a boot from a
2-22 vehicle.

2-23 (b) An applicant for a boot operator's license must be at
2-24 least 18 years of age.

2-25 Sec. 2308.1556. BOOTING COMPANY LICENSE. (a) A booting
2-26 company license is required for a person to operate a booting
2-27 company.

2-28 (b) To be eligible for a booting company license, an
2-29 applicant must submit evidence that the applicant is covered by:

2-30 (1) a general liability insurance policy on a broad
2-31 form with:

2-32 (A) a combined single limit for bodily injury and
2-33 property damage for each occurrence of at least \$500,000; and

2-34 (B) an aggregate limit for all occurrences for
2-35 each policy year of at least \$500,000; and

2-36 (2) an automobile liability insurance policy covering
2-37 the applicant and the applicant's employees for vehicles owned,
2-38 hired, or otherwise used in the applicant's business, with a
2-39 combined single limit for each occurrence of at least \$500,000.

2-40 SECTION 10. The heading to Subchapter E, Chapter 2308,
2-41 Occupations Code, is amended to read as follows:

2-42 SUBCHAPTER E. LOCAL REGULATION OF TOWING AND BOOTING

2-43 SECTION 11. Subchapter E, Chapter 2308, Occupations Code,
2-44 is amended by adding Section 2308.2085 to read as follows:

2-45 Sec. 2308.2085. MUNICIPAL ORDINANCE REGULATING BOOTING
2-46 COMPANIES AND OPERATORS. (a) A municipality may adopt an

2-47 ordinance that is identical to the booting provisions in this
2-48 chapter or that imposes additional requirements that exceed the
2-49 minimum standards of the booting provisions in this chapter but may
2-50 not adopt an ordinance that conflicts with the booting provisions
2-51 in this chapter.

2-52 (b) A municipality may regulate the fees that may be charged
2-53 in connection with the booting of a vehicle, including associated
2-54 parking fees.

2-55 (c) A municipality may require booting companies to obtain a
2-56 permit to operate in the municipality.

2-57 SECTION 12. Subchapter F, Chapter 2308, Occupations Code,
2-58 is amended by adding Section 2308.257 to read as follows:

2-59 Sec. 2308.257. BOOTING OF UNAUTHORIZED VEHICLE. (a) A
2-60 parking facility owner may, without the consent of the owner or

2-61 operator of an unauthorized vehicle, cause a boot to be installed on
2-62 the vehicle in the parking facility if signs that comply with

2-63 Subchapter G prohibiting unauthorized vehicles are located on the
2-64 parking facility at the time of the booting and for the preceding 24
2-65 hours and remain installed at the time of the booting.

2-66 (b) A boot operator that installs a boot on a vehicle must
2-67 affix a conspicuous notice to the vehicle's front windshield or
2-68 driver's side window stating:

2-69 (1) that the vehicle has been booted and damage may

3-1 occur if the vehicle is moved;
3-2 (2) the date and time the boot was installed;
3-3 (3) the name, address, and telephone number of the
3-4 booting company;
3-5 (4) a telephone number that is answered 24 hours a day
3-6 to enable the owner or operator of the vehicle to arrange for
3-7 removal of the boot;
3-8 (5) the amount of the fee for removal of the boot and
3-9 any associated parking fees; and
3-10 (6) notice of the right of a vehicle owner or vehicle
3-11 operator to a hearing under Subchapter J.
3-12 (c) On removal of a boot, the boot operator shall provide a
3-13 receipt to the vehicle owner or operator stating:
3-14 (1) the name of the person who removed the boot;
3-15 (2) the date and time the boot was removed;
3-16 (3) the name of the person to whom the vehicle was
3-17 released;
3-18 (4) the amount of fees paid for removal of the boot and
3-19 any associated parking fees; and
3-20 (5) the right of the vehicle owner or operator to a
3-21 hearing under Subchapter J.
3-22 (d) The booting company shall maintain a copy of the receipt
3-23 at its place of business for a period of three years. A peace
3-24 officer has the right, on request, to inspect and copy the records
3-25 to determine compliance with the requirements of this section.
3-26 (e) A booting company shall accept payment by an electronic
3-27 check, debit card, or credit card for any fee or charge associated
3-28 with the removal of a boot. A booting company may not collect a fee
3-29 for any charge associated with the removal of a boot from a person
3-30 who offers to pay the charge with an electronic check, debit card,
3-31 or credit card form of payment that the booting company is not
3-32 equipped to accept.
3-33 SECTION 13. Section 2308.301, Occupations Code, is amended
3-34 to read as follows:
3-35 Sec. 2308.301. GENERAL REQUIREMENTS FOR SIGN PROHIBITING
3-36 UNAUTHORIZED VEHICLES. (a) Except as provided by Subsection
3-37 (a)(2)(B) and Section 2308.304 or 2308.305, an unauthorized vehicle
3-38 may not be towed under Section 2308.252(a)(1) or booted under
3-39 Section 2308.257 unless a sign prohibiting unauthorized vehicles on
3-40 a parking facility is:
3-41 (1) facing and conspicuously visible to the driver of
3-42 a vehicle that enters the facility;
3-43 (2) located:
3-44 (A) on the right or left side of each driveway or
3-45 curb-cut through which a vehicle can enter the facility, including
3-46 an entry from an alley abutting the facility; or
3-47 (B) at intervals along the entrance so that no
3-48 entrance is farther than 25 feet from a sign if:
3-49 (i) curbs, access barriers, landscaping, or
3-50 driveways do not establish definite vehicle entrances onto a
3-51 parking facility from a public roadway other than an alley; and
3-52 (ii) the width of an entrance exceeds 35
3-53 feet;
3-54 (3) permanently mounted on a pole, post, permanent
3-55 wall, or permanent barrier;
3-56 (4) installed on the parking facility; and
3-57 (5) installed so that the bottom edge of the sign is no
3-58 lower than five feet and no higher than eight feet above ground
3-59 level.
3-60 (b) Except as provided by Section 2308.305, an unauthorized
3-61 vehicle may be towed under Section 2308.252(a)(1) or booted under
3-62 Section 2308.257 only if each sign prohibiting unauthorized
3-63 vehicles:
3-64 (1) is made of weather-resistant material;
3-65 (2) is at least 18 inches wide and 24 inches tall;
3-66 (3) contains the international symbol for towing
3-67 vehicles;
3-68 (4) contains a statement describing who may park in
3-69 the parking facility and prohibiting all others;

4-1 (5) bears the words "Unauthorized Vehicles Will Be
4-2 Towed or Booted at Owner's or Operator's Expense";
4-3 (6) contains a statement of the days and hours of
4-4 towing and booting enforcement; and
4-5 (7) contains a number, including the area code, of a
4-6 telephone that is answered 24 hours a day to enable an owner or
4-7 operator of a vehicle to locate a towed ~~the~~ vehicle or to arrange
4-8 for removal of a boot from a vehicle.

4-9 SECTION 14. Subsections (c) and (e), Section 2308.302,
4-10 Occupations Code, are amended to read as follows:
4-11 (c) The portion of the sign immediately below the
4-12 international towing symbol must contain the words "Towing And
4-13 Booting Enforced" ~~[or the information provided by Section~~
4-14 ~~2308.301(b)(4)]~~ in lettering at least two inches in height. The
4-15 lettering on this portion of the sign must consist of white letters
4-16 on a bright red background.
4-17 (e) The bottommost portion of the sign must contain the
4-18 telephone numbers ~~[number]~~ required by Section 2308.301(b), in
4-19 lettering at least one inch in height and may, if the facility owner
4-20 chooses or if an applicable municipal ordinance requires, include
4-21 the name and address of the storage facility to which an
4-22 unauthorized vehicle will be removed. The lettering on this
4-23 portion of the sign must consist of white letters on a bright red
4-24 background.

4-25 SECTION 15. The heading to Subchapter I, Chapter 2308,
4-26 Occupations Code, is amended to read as follows:
4-27 SUBCHAPTER I. REGULATION OF TOWING COMPANIES, BOOTING COMPANIES,
4-28 AND PARKING FACILITY OWNERS

4-29 SECTION 16. Section 2308.401, Occupations Code, is amended
4-30 to read as follows:
4-31 Sec. 2308.401. PARKING FACILITY OWNER PROHIBITED FROM
4-32 RECEIVING FINANCIAL GAIN FROM TOWING COMPANY OR BOOTING COMPANY.
4-33 (a) A parking facility owner may not directly or indirectly accept
4-34 anything of value from:
4-35 (1) a towing company in connection with the removal of
4-36 a vehicle from a parking facility; or
4-37 (2) a booting company in connection with booting a
4-38 vehicle in a parking facility.
4-39 (b) A parking facility owner may not have a direct or
4-40 indirect monetary interest in:
4-41 (1) a towing company that for compensation removes
4-42 unauthorized vehicles from a parking facility in which the parking
4-43 facility owner has an interest; or
4-44 (2) a booting company that for compensation boots
4-45 vehicles in a parking facility in which the parking facility owner
4-46 has an interest.

4-47 SECTION 17. Section 2308.402, Occupations Code, is amended
4-48 to read as follows:
4-49 Sec. 2308.402. TOWING COMPANY AND BOOTING COMPANY
4-50 PROHIBITED FROM FINANCIAL INVOLVEMENT WITH PARKING FACILITY OWNER.
4-51 (a) A towing company or booting company may not directly or
4-52 indirectly give anything of value to a parking facility owner in
4-53 connection with:
4-54 (1) the removal of a vehicle from a parking facility;
4-55 or
4-56 (2) the booting of a vehicle in a parking facility.
4-57 (b) A towing company or booting company may not have a
4-58 direct or indirect monetary interest in a parking facility:
4-59 (1) from which the towing company for compensation
4-60 removes unauthorized vehicles; or
4-61 (2) in which the booting company for compensation
4-62 installs boots on unauthorized vehicles.

4-63 SECTION 18. The heading to Section 2308.404, Occupations
4-64 Code, is amended to read as follows:
4-65 Sec. 2308.404. CIVIL LIABILITY OF TOWING COMPANY, BOOTING
4-66 COMPANY, OR PARKING FACILITY OWNER FOR VIOLATION OF CHAPTER.

4-67 SECTION 19. Subsections (a), (b), and (c), Section
4-68 2308.404, Occupations Code, are amended to read as follows:
4-69 (a) A towing company, booting company, or parking facility

5-1 owner who violates this chapter is liable to the owner or operator
5-2 of the vehicle that is the subject of the violation for:
5-3 (1) damages arising from the removal, ~~[or]~~ storage, or
5-4 booting of the vehicle; and
5-5 (2) towing, ~~[or]~~ storage, or booting fees assessed in
5-6 connection with the vehicle's removal, ~~[or]~~ storage, or booting.
5-7 (b) A vehicle's owner or operator is not required to prove
5-8 negligence of a parking facility owner, ~~[or]~~ towing company, or
5-9 booting company to recover under Subsection (a).
5-10 (c) A towing company, booting company, or parking facility
5-11 owner who intentionally, knowingly, or recklessly violates this
5-12 chapter is liable to the owner or operator of the vehicle that is
5-13 the subject of the violation for \$300 plus three times the amount of
5-14 fees assessed in the vehicle's removal, towing, ~~[or]~~ storage, or
5-15 booting.

5-16 SECTION 20. The heading to Subchapter J, Chapter 2308,
5-17 Occupations Code, is amended to read as follows:
5-18 SUBCHAPTER J. RIGHTS OF OWNERS AND OPERATORS OF STORED OR BOOTED
5-19 VEHICLES

5-20 SECTION 21. The heading to Section 2308.451, Occupations
5-21 Code, is amended to read as follows:
5-22 Sec. 2308.451. PAYMENT OF COST OF REMOVAL, ~~[AND]~~ STORAGE,
5-23 AND BOOTING OF VEHICLE.

5-24 SECTION 22. Section 2308.451, Occupations Code, is amended
5-25 by adding Subsections (c) and (d) to read as follows:
5-26 (c) If in a hearing held under this chapter the court finds
5-27 that a person authorized, with probable cause, the booting of a
5-28 vehicle in a parking facility, the person who requested the hearing
5-29 shall pay the costs of the booting.
5-30 (d) If in a hearing held under this chapter the court does
5-31 not find that a person authorized, with probable cause, the booting
5-32 of a vehicle, the person that authorized the booting shall:
5-33 (1) pay the costs of the booting and any related
5-34 parking fees; or
5-35 (2) reimburse the owner or operator for the cost of the
5-36 booting and any related parking fees paid by the owner or operator.

5-37 SECTION 23. Section 2308.452, Occupations Code, is amended
5-38 to read as follows:
5-39 Sec. 2308.452. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO
5-40 HEARING. The owner or operator of a vehicle that has been removed
5-41 and placed in a vehicle storage facility or booted without the
5-42 consent of the owner or operator of the vehicle is entitled to a
5-43 hearing on whether probable cause existed for the removal and
5-44 placement or booting.

5-45 SECTION 24. Section 2308.453, Occupations Code, is amended
5-46 to read as follows:
5-47 Sec. 2308.453. JURISDICTION. A hearing under this chapter
5-48 shall be in the justice court having jurisdiction in:
5-49 (1) the precinct in which the vehicle storage facility
5-50 is located; or
5-51 (2) for booted vehicles, the precinct in which the
5-52 parking facility is located.

5-53 SECTION 25. Section 2308.454, Occupations Code, is amended
5-54 by adding Subsections (c) and (d) to read as follows:
5-55 (c) If before a hearing held under this chapter the owner or
5-56 operator of a vehicle pays the costs for removal of a boot, the
5-57 booting company shall at the time of payment give the owner or
5-58 operator written notice of the person's rights under this chapter.
5-59 (d) The booting operator that places a notice on a booted
5-60 vehicle under Section 2308.257 shall include with that notice a
5-61 notice of the person's rights under this chapter.

5-62 SECTION 26. Section 2308.455, Occupations Code, is amended
5-63 to read as follows:
5-64 Sec. 2308.455. CONTENTS OF NOTICE. The notice under
5-65 Section 2308.454 must include:
5-66 (1) a statement of:
5-67 (A) the person's right to submit a request within
5-68 14 days for a court hearing to determine whether probable cause
5-69 existed to remove, or install a boot on, the vehicle;

6-1 (B) the information that a request for a hearing
6-2 must contain; and
6-3 (C) any filing fee for the hearing;
6-4 (2) the name, address, and telephone number of the
6-5 towing company that removed the vehicle or the booting company that
6-6 booted the vehicle;
6-7 (3) the name, address, and telephone number of the
6-8 vehicle storage facility in which the vehicle was placed;
6-9 (4) the name, address, and telephone number of the
6-10 person, property owner, or law enforcement agency that authorized
6-11 the removal of the vehicle; and
6-12 (5) the name, address, and telephone number of the
6-13 justice court having jurisdiction in the precinct in which the
6-14 vehicle storage facility is located or, for booted vehicles, the
6-15 name, address, and telephone number of the justice court having
6-16 jurisdiction in the precinct in which the parking facility is
6-17 located.
6-18 SECTION 27. Subsections (a) and (b), Section 2308.456,
6-19 Occupations Code, are amended to read as follows:
6-20 (a) Except as provided by Subsection (c), a person entitled
6-21 to a hearing under this chapter must deliver a written request for
6-22 the hearing to the court before the 14th day after the date the
6-23 vehicle was removed and placed in the vehicle storage facility or
6-24 booted, excluding Saturdays, Sundays, and legal holidays.
6-25 (b) A request for a hearing must contain:
6-26 (1) the name, address, and telephone number of the
6-27 owner or operator of the vehicle;
6-28 (2) the location from which the vehicle was removed or
6-29 in which the vehicle was booted;
6-30 (3) the date when the vehicle was removed or booted;
6-31 (4) the name, address, and telephone number of the
6-32 person or law enforcement agency that authorized the removal or
6-33 booting;
6-34 (5) the name, address, and telephone number of the
6-35 vehicle storage facility in which the vehicle was placed;
6-36 (6) the name, address, and telephone number of the
6-37 towing company that removed the vehicle or of the booting company
6-38 that installed a boot on the vehicle;
6-39 (7) a copy of any receipt or notification that the
6-40 owner or operator received from the towing company, the booting
6-41 company, or the vehicle storage facility; and
6-42 (8) if the vehicle was removed from or booted in a
6-43 parking facility:
6-44 (A) one or more photographs that show the
6-45 location and text of any sign posted at the facility restricting
6-46 parking of vehicles; or
6-47 (B) a statement that no sign restricting parking
6-48 was posted at the parking facility.
6-49 SECTION 28. Section 2308.458, Occupations Code, is amended
6-50 by amending Subsections (b), (c), and (e) and adding Subsections
6-51 (b-2) and (c-1) to read as follows:
6-52 (b) The court shall notify the person who requested the
6-53 hearing for a towed vehicle, the person or law enforcement agency
6-54 that authorized the removal of the vehicle, and the vehicle storage
6-55 facility in which the vehicle was placed of the date, time, and
6-56 place of the hearing in a manner provided by Rule 21a, Texas Rules
6-57 of Civil Procedure. The notice of the hearing to the person or law
6-58 enforcement agency that authorized the removal of the vehicle must
6-59 [shall] include a copy of the request for hearing.
6-60 (b-2) The court shall notify the person who requested the
6-61 hearing for a booted vehicle, the parking facility in which the
6-62 vehicle was booted, and the booting company of the date, time, and
6-63 place of the hearing in a manner provided by Rule 21a, Texas Rules
6-64 of Civil Procedure. The notice of hearing to the person that
6-65 authorized the booting of the vehicle must include a copy of the
6-66 request for hearing.
6-67 (c) The issues in a hearing regarding a towed vehicle under
6-68 this chapter are:
6-69 (1) whether probable cause existed for the removal and

7-1 placement of the vehicle;

7-2 (2) whether a towing charge imposed or collected in

7-3 connection with the removal or placement of the vehicle was greater

7-4 than the amount authorized by the political subdivision under

7-5 Section 2308.201 or 2308.202;

7-6 (3) whether a towing charge imposed or collected in

7-7 connection with the removal or placement of the vehicle was greater

7-8 than the amount authorized under Section 2308.203 or 2308.204; or

7-9 (4) whether a towing charge imposed or collected in

7-10 connection with the removal or placement of the vehicle was greater

7-11 than the amount filed with the department under Section 2308.206.

7-12 (c-1) The issues in a hearing regarding a booted vehicle

7-13 under this chapter are:

7-14 (1) whether probable cause existed for the booting of

7-15 the vehicle; and

7-16 (2) whether a boot removal charge imposed or collected

7-17 in connection with the removal of the boot from the vehicle was

7-18 greater than the amount authorized by the political subdivision

7-19 under Section 2308.2085.

7-20 (e) The court may award:

7-21 (1) court costs to the prevailing party;

7-22 (2) the reasonable cost of photographs submitted under

7-23 Section 2308.456(b)(8) to a vehicle owner or operator who is the

7-24 prevailing party;

7-25 (3) an amount equal to the amount that the towing

7-26 charge or booting removal charge and associated parking fees

7-27 exceeded fees regulated by a political subdivision or authorized by

7-28 this code or by Chapter 2303; and

7-29 (4) reimbursement of fees paid for vehicle towing,

7-30 [and] storage, or removal of a boot.

7-31 SECTION 29. Subsection (a), Section 2308.505, Occupations

7-32 Code, is amended to read as follows:

7-33 (a) A person commits an offense if the person:

7-34 (1) violates an ordinance, resolution, order, rule, or

7-35 regulation of a political subdivision adopted under Section

7-36 2308.201, ~~or~~ 2308.202, or 2308.2085 for which the political

7-37 subdivision does not prescribe the penalty;

7-38 (2) charges or collects a fee in a political

7-39 subdivision that regulates the operation of tow trucks under

7-40 Section 2308.201 or 2308.202 or booting under Section 2308.2085

7-41 that is not authorized or is greater than the authorized amount of

7-42 the fee;

7-43 (3) charges or collects a fee greater than the amount

7-44 authorized under Section 2308.204;

7-45 (4) charges or collects a fee in excess of the amount

7-46 filed with the department under Section 2308.206;

7-47 (5) violates Section 2308.205; or

7-48 (6) violates a rule of the department applicable to a

7-49 tow truck, [and] towing company, or booting company.

7-50 SECTION 30. Section 2303.058, Occupations Code, is amended

7-51 to read as follows:

7-52 Sec. 2303.058. ADVISORY BOARD. The Towing, [and] Storage,

7-53 and Booting Advisory Board under Chapter 2308 shall advise the

7-54 commission in adopting vehicle storage rules under this chapter.

7-55 SECTION 31. Promptly after this Act takes effect, the

7-56 presiding officer of the Texas Commission of Licensing and

7-57 Regulation shall appoint to the Towing, Storage, and Booting

7-58 Advisory Board one representative of a booting company as required

7-59 by Subsection (a), Section 2308.051, Occupations Code, as amended

7-60 by this Act.

7-61 SECTION 32. This Act takes effect September 1, 2009.

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