

TOW TRUCKS, OPERATORS AND VEHICLE STORAGE FACILITIES LAW

Sec.2308.452. Right of Owner or Operator of Vehicle to Hearing.

The owner or operator of a vehicle that has been removed and placed in a vehicle storage facility or booted without the 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.

Sec. 2308.453 Jurisdiction.

A hearing under this chapter shall be in any Justice Court in:

- (1) The County from which the motor vehicle was towed; or
- (2) For booted vehicle, the County in which the parking facility is located.

Sec. 2308.454. Notice to vehicle owner or operator.

- (a) If before a hearing held under this chapter, the owner or operator of the vehicle pays the costs of the vehicle's removal or storage, the towing company or vehicle storage facility that received payment, shall at the time of payment, give the owner or operator written notice of the person's rights under this chapter.
- (b) The operator of a vehicle storage facility that sends a notice under Subchapter D, Chapter 2303, shall include with that notice, a notice of the person's rights under this chapter.
- (c) If before a hearing is held under this chapter, the owner or operator of a vehicle pays the costs for removal of a boot, the booting company shall, at the time of payment, give the owner or operator written notice of the person's rights under this chapter. (Added pursuant to SB 2153, 81st Leg. R.S., (2009).
- (d) The booting operator that places a notice on a booted vehicle under Section 2308.257 shall include with that a notice of the person's rights under this chapter.
- (e) If the towing company or vehicle storage facility that received the payment, fails to furnish the owner or operator of the vehicle with the names, address and telephone number of the parking facility owner or law enforcement agency that authorized the removal of the vehicle, the towing company or vehicle storage facility that received the payment is liable if the court, after a hearing, does not find probable cause for the removal and storage of the vehicle (Added pursuant to HB 2571, 81st Leg. R.S., (2009).

Sec. 2308.455. Contents of Notice.

The notice under Section 2308.454 must include:

- (1) A statement of:
 - (a) The person's right to submit a request within 14 days for a court hearing to determine whether probable cause existed to remove or install a boot on, the vehicle.
 - (b) The information that a request for a hearing must contain;
 - (c) Any filing fee for the hearing, and
 - (d) The person's right to request a hearing in any justice court in;
 - (i) The county from which the vehicle was towed; or
 - (ii) For booted vehicles, the county in which the parking facility is located.
- (2) The name, address, and telephone number of the towing company that removed the vehicle or the booting company that booted the vehicle;
- (3) The name, address, telephone number, and county of the vehicle storage facility in which the vehicle was placed;
- (4) The name, street (including city, state and zip code), telephone number of the person, parking facility owner, or law enforcement agency that authorized the removal of the vehicle; and

- (5) The name, address, and telephone number of each Justice Court in the county from which the vehicle was towed, or for booted vehicles, the county in which the parking facility is located, or the address of the internet website maintained by the Office of Court Administration of the Texas Judicial System that contains the name, address, and telephone number of each Justice Court in that county.

Sec. 2308.456 Request for Hearing.

- (a) Except as provided by Subsection (c), a person entitled to a hearing under this chapter, must deliver a written request for the hearing to the Court before the 14th day after the date the vehicle was removed and placed in the vehicle storage facility or booted, excluding Saturday's, Sunday's and legal holidays. (Amended pursuant to SB 2153, 81st Leg., R.S. (2009).
Except as provided by Subsections (c) and (c-1), a person entitled to a hearing under this chapter, must deliver written request for the hearing to the Court before the 14th day after the date the vehicle was removed and placed in the vehicle storage facility or booted, excluding Saturday's, Sunday's and legal holidays, (Amended pursuant to HB 2571, 81st Leg., R.S. (2009)
- (b) A request for a hearing must contain:
- (1) The name, address, and telephone number of the owner or operator of the vehicle;
 - (2) The location from which the vehicle was removed or in which the vehicle was booted;
 - (3) The date when the vehicle was removed or booted;
 - (4) The name, address, and telephone number of the person or law enforcement agency that authorized the removal or booting;
 - (5) The name, address, and telephone number of the vehicle storage facility in which the vehicle was placed;
 - (6) The name, address, and telephone number of the towing company that removed the vehicle or of the booting company that installed a boot on the vehicle;
 - (7) A copy of any receipt or notification that the owner or operator received from the towing company, the booting company, or the vehicle storage facility, and
 - (8) If the vehicle was removed from or booted in a parking facility.
 - (A) One or more photographs that show the location and text of any sign posted at the facility restricting parking of vehicle, or
 - (B) At statement that no sign restricting parking was posted at the parking facility.
- (c) If notice was not given under Section 2308.454, the 14-day deadline for requesting a hearing under Subsection (a) does not apply, and the owner or operator of the vehicle may deliver a written request for a hearing at any time.
- (d) The 14-day period for requesting a hearing under Subsection (a) does not begin until the date on which the towing company or vehicle storage facility provides to the vehicle owner or operator the information necessary for the vehicle owner or operator to complete the material for the request for hearing requires under Subsection (b)(2) through (6)
- (e) A person who fails to deliver a request in accordance with Subsection (a) waives the right to a hearing.

Sec. 2308.457. Filing Fee Authorized

The Court may charge a filing fee of \$20.00 for a hearing under this chapter plus \$21.00 court costs. (total \$41.00)

Sec. 2308.458. Hearing.

- (a) A hearing under this chapter shall be held before the 21st calendar day after the date the court receives the request for the hearing.

(b) The Court shall notify the person who requested the hearing for a towed vehicle, the parking facility owner or law enforcement agency that authorized the removal of the vehicle, the towing company, and the vehicle storage facility in which the vehicle was placed, of the date, time and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure. The notice of the hearing to the towing company and the parking facility owner or law enforcement agency that authorized the removal of the vehicle must include a copy of the request for hearing. Notice to the law enforcement agency that authorized the removal of the vehicle is sufficient as notice to the political subdivision in which the law enforcement agency is located.

(b-1) At a hearing under this section:

(1) The burden of proof is on the person who requested the hearing; and

(2) Hearsay evidence is admissible if it is considered otherwise reliable by the Justice of the Peace.

(b-2) The court shall notify the person who requested the hearing for a booted vehicle, the parking facility in which the vehicle was booted, and the booting company, of the date, time and place of hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure. The notice of hearing to the person that authorized the booting of the vehicle must include a copy of the request for hearing.

(c) The issues in a hearing regarding a towed vehicle under this chapter are:

(1) Whether probable cause existed for the removal and placement of the vehicle;

(2) Whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized by the political subdivision under Section 2308.201 or 2308.202;

(3) Whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized by the political subdivision under Section 2308.203; or

(4) Whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized by the political subdivision under Section 2308.0575.

(c-1) The issues in a hearing regarding a booted vehicle under this chapter are;

(1) Whether probable cause existed for the booting of the vehicle; and

(2) Whether a boot removal charge imposed or collected in connection with the removal of the boot from the vehicle was greater than the amount authorized by the political subdivision under Section 2308.2085.

(d) The Court shall make written findings of fact and a conclusion of law.

(e) The Court may award;

(1) Court costs and attorney's fees to the prevailing party;

(2) The reasonable costs of photographs submitted under Section 2308.456(b)(8) to a vehicle owner or operator who is the prevailing party;

(3) An amount equal to the amount that the towing charge or booting removal charge and associated parking fees exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303; and

(4) Reimbursement of fees paid for vehicle towing, storage or removal of a boot.

Sec. 2308.459. Appeal

An appeal from a hearing under this chapter is governed by the rules of procedure applicable to civil cases in Justice Court, except that no appeal bond may be required by the Court.

Sec. 2308.460. Enforcement of award.

(a) An award under this chapter may be enforced by any means available for the enforcement of a judgment for a debt.

(b) The department shall suspend a license on the license holder's failure to pay final judgment awarded to an owner or operator of a vehicle before the 60th day after the date of the final judgment. The department

must provide notice of the suspension to the license holder at least 30 days before the date the license is to be suspended.

- (c) The owner or operator of the vehicle shall submit a certified copy of the final judgment to the department.
- (d) On receipt of the certified copy of the unpaid final judgment, the department shall disqualify a person from renewing a license or permit or deny the person the opportunity of taking a licensing examination on the grounds that the person, towing company, or vehicle storage facility has not paid a final judgement awarded to an owner or operator of a vehicle.
- (e) The department shall reinstate the license on submission of evidence satisfactory to the department of payment of the final judgment by the person, towing company or vehicle storage facility.

REQUEST FOR TOW HEARING INSTRUCTIONS

Texas Occupations Code Chapter 2308
Subchapter J – Rights of Owners and Operators of Stored Vehicles

Instructions: The owner or operator of a vehicle towed and placed in a vehicle storage facility without consent is entitled to a hearing on whether probable cause existed for the removal of the vehicle. A person entitled to a hearing must deliver a written request for the hearing to the _____ **County Justice Court** (street address) _____, **Texas** (zip code) _____.

The request for hearing must be delivered before the **14th** day after the date the vehicle was removed and placed in the vehicle storage facility (*not counting Saturdays, Sundays and legal holidays*). The Request for Hearing must be completed with the specified information. **The precinct in which the vehicle storage facility is located must be designated.** The Clerk of the Court accepts filings **Monday through Friday from _____ a.m. to _____ p.m.** A filing fee of **\$41.00** must be paid by cashier’s check or money order payable to the County Justice Court at the time of filing.

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

“Parking facility owner” means

- (a) an owner or operator of a parking facility, including a lessee employee or agent of an owner or operator;
- (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.

For assistance in obtaining this information, you may call the Texas Department of Transportation, Motor Carrier Contacts, Toll-Free Customer Service at 800-299-1700.

(SEE COMPLETE FORM-Pages 2 and 3)
REQUEST FOR TOW HEARING

CAUSE NUMBER _____

§ IN THE JUSTICE COURT

§ PRECINCT _____

RE: REMOVAL AND STORAGE OF § MIDLAND COUNTY, TEXAS

Describe Vehicle: _____

Owner/Operator of Vehicle: _____

Parking Facility Owner: _____

Towing Company: _____

Vehicle Storage Facility: _____

Law Enforcement Agency: _____

**Request for Hearing under Chapter 2308, Texas Occupations Code
(Rights of Owners and Operators of Stored Vehicles)**

Name of Vehicle's Owner or Operator: _____

Address: _____

City: _____, State: _____, Zip Code: _____

Mobile: _____ Work: _____ Home: _____

The person requesting the hearing is the: owner operator of the vehicle

Email Address: _____

Year: _____, Model: _____, Make: _____

Description of Vehicle: _____

Date Vehicle was towed: _____ License Number/State: _____

Location from which vehicle was towed: _____

Name of Parking Facility: _____

Person or Law Enforcement Agency Authorizing Removal: _____

Name: _____

Address: _____

City: _____, State: _____, Zip Code: _____

Telephone: _____

REQUEST FOR TOW HEARING

Justice of the Peace Precinct in which the Vehicle Storage Facility is located: _____

Towing Company that Removed the Vehicle: _____

Name: _____

Address: _____

City: _____, State: _____, Zip Code: _____

Telephone: _____

(Please check the appropriate information)

- I paid the costs of the tow and storage in the amount of \$ _____.
- I received a receipt for payment from the Towing Company or the Vehicle Storage Facility
- I received notification of my rights following the removal of the Vehicle from the Vehicle Storage Facility.
- I have attached a copy of the receipt and/or of the notification of rights to this Request for Hearing.
- No notice of rights following the towing and storage of the Vehicle was given to me by the towing the Vehicle Storage Facility
- If the Vehicle was removed from a parking facility) I have attached photograph(s) that show the location text of signs posted restricting the parking of vehicles at the parking facility.
- No signs restricting parking were posted at the parking facility.
- I was charged or paid a towing charge greater than the amount authorized. I paid a Towing Charge of \$ _____.

Other Remarks:

Signed on: _____

Signature or Owner/Operator of Vehicle

Notice of Hearing Date, Time, and Location

YOU ARE NOTIFIED that a hearing is scheduled on _____ at _____ am/pm.

In THE JUSTICE COURT, PRECINCT _____, located at (street address) _____

MIDLAND COUNTY, TEXAS _____.

ISSUED this the _____ day of _____, 20____.

JUSTICE OF THE PEACE,

PRECINCT _____
MIDLAND COUNTY, TEXAS