

Texas Towing & Storage Association (TTSA) is the oldest association of the towing and vehicle storage professionals in Texas representing all sectors of the industry. TTSA provides education and training to its members and advocates for the industry at the local, state and national level. For more than 45 years, TTSA has worked with the Texas Legislature and executive branch agencies to promote a fair and safe climate for our customers and a healthy business environment for the industry.

TTSA appreciates the opportunity to submit comments on the Texas Sunset Staff Report for the Texas Department of Licensing and Regulation (TDLR).

Recommendation 1.1

TTSA supports Recommendation 1.1 to continue TDLR for 12 years.

Recommendation 1.2

TTSA opposes Recommendation 1.2 to remove advisory board meeting requirements from statute authorizing TDLR to call meetings as needed. Over the years, the towing and vehicle storage industry has been regulated by four different state agencies (Texas Bureau of Labor Statistics, Texas Railroad Commission, Texas Department of Transportation, TDLR); regulation by TDLR has been the most effective due in large part to the advisory board. Having regular expert input and guidance has been critical to the agency in learning and regulating the unique and dynamic industry. Meetings of the advisory board also provide an important forum for the public and industry to stay informed about ever evolving laws, regulations and agency operations. While TTSA is confident that the current TDLR administration values the advisory board and would call regular meetings, we would like assurance that future regulators will do the same by retaining the requirement in statute that the Towing & Storage Advisory Board meet at least twice a year.

Recommendation 6.1

TTSA disagrees with requiring TDLR to establish a risk-based only approach to inspections. Our members believe that the biennial inspections of vehicle storage facilities as required in statute help ensure businesses are operating in regular compliance with laws and regulations intended to inform and protect the public.

Recommendation 6.2

TTSA supports Recommendation 6.2 requiring TDLR to prioritize complaint investigations based on the risk they pose to the public. Over the last few years, TDLR has moved more in this direction in the towing and vehicle storage program.

Recommendation 6.3

TTSA generally supports Recommendation 6.3 directing TDLR to develop a comprehensive, data-driven strategy for assessing program risks and setting regulatory priorities but we also urge caution so that the agency remains sensitive that they are regulating people's livelihoods.

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Recommendation 7.1

TTSA supports Recommendation 7.1 removing subjective licensure provisions from TDLR's statute and we recommend removing such provisions from rules as well.

Recommendation 7.2

Towing companies were specifically mentioned in the discussion on Recommendation 7.2 requiring additional financial and controlling information of applicants for certain business licenses and TTSA supports this recommendation as unscrupulous towing companies should not be licensed by the State.

Recommendation 7.6

While TTSA supports transparency, we have concerns about the statistical reporting of information on complaints regarding licensees given that there are a disproportionate number of complaints in the towing and vehicle storage program – no one is ever happy when they have been towed! In reporting complaints for this industry, we believe it is important to consider business volume. For instance, if a vehicle storage facility stores 20,000 vehicles per year and has 50 complaints that is a very low complaint ratio of only ¼ of one percent whereas if a facility stores 500 cars per year and has the same number of complaints that is a high ratio and should be accurately reported and considered when taking enforcement actions.

Recommendation 7.7

TTSA generally supports Recommendation 7.7 authorizing the Commission to dismiss low-level complaints and to delegate this authority to agency staff.

TTSA Recommendation 1

The current towing and vehicle storage facility statutes are quite extensive, overly prescriptive and include a great deal of specificity regarding business practices resulting in licensees being subject to an inordinate number of violations and fines. HB 2508, 85th Legislature was a comprehensive bill streamlining and modernizing the towing, booting and vehicle facility laws. In 2017, the bill passed the Texas House 143-0 but given the lateness of the session the bill failed to pass the Senate. While a few of the provisions in the bill have been addressed in subsequent legislation, the statute remains cumbersome and overly prescriptive regarding everyday business practices (e.g. covering vehicles, locking vehicles, requiring that every type of credit card be accepted; requiring costly publication in newspapers rather than electronic publication). TTSA recommends streamlining and modernizing towing and vehicle facility laws.

TTSA Recommendation 2

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The issue of vehicle “flipping” is mentioned in the discussion of the second finding under Issue 6 and TTSA strongly agrees this is a serious problem that should be addressed. Below we provide an accurate description of the issue and suggest possible solutions.

When a vehicle is towed from an accident scene it is considered to be a nonconsent tow which is highly regulated by State law. Under Section 2308.205(a)(1), Occupations Code when towing a nonconsent tow the company is required to take the vehicle to a licensed vehicle storage facility – where all fees are regulated - unless the towing company agrees to take the vehicle to another location designated by the vehicle owner. Flipping occurs when the tow truck operator convinces the vehicle owner to request that the vehicle be taken to an unregulated body shop/repair facility thus, flipping it from a highly regulated nonconsent tow to a consent tow. Tow truck operators are paid a bounty for vehicles taken to an unregulated body shop/repair facility and it is our understanding the bounties range from \$200-\$1500 a vehicle. Once at a body shop/repair facility the vehicle owner is charged outrageous fees for storage, tear down and other unregulated services.

TTSA would strongly support regulation of the body shops/repair facilities to address the problem of vehicle flipping that is discussed under Issue 6. Specifically, we suggest that body shops/repair facilities be subject to statutorily set fees relating to the storage of a towed vehicle under Section 2303.155, Occupations Code. Additionally, body shops/repair facilities should be prohibited from assessing any fees that are not statutorily regulated without written approval of the vehicle owner.

Additionally, TTSA recommends a State law prohibiting solicitation by a tow operator at an accident scene.

TTSA Recommendation 3

Everyday vehicles are taken from vehicle storage facilities by insurance companies without the consent of the vehicle owner. Often times a vehicle is taken before the vehicle owner has had time to retrieve their personal belongings (e.g. computers, purses, baby seats, garage door openers, wheelchairs, personal and financial information etc.,) and once the vehicle is taken to a nonsecure salvage pool there is no guarantee the belongings will be there or in good shape as there are no regulations regarding the storage of vehicles at salvage pools; not to mention the inconvenience of having to go to a second location to retrieve belongings. The issue could be easily addressed in statute or by simply revising TDLR’s VSF Form 11 to require the signature of the vehicle owner rather than having the current Section 5 of the form requiring an insurance adjuster’s signature. Everyday vehicle storage facilities receive forms where the insurance adjuster’s signature is falsified (e.g. salvage pool tow operator fills it out while sitting at the vehicle storage facility). Insurance companies argue that requiring a vehicle owner’s signature would be cumbersome and delay release of the vehicle resulting in more daily storage fees but with today’s technology obtaining an electronic signature is simple and should not create unnecessary delays.