

TRANSPORTATION CODE
CHAPTER 643. MOTOR CARRIER REGISTRATION
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 643.001. DEFINITIONS. In this chapter:

(1) "Department" means the Texas Department of Transportation.

(2) "Director" means:

(A) the executive director of the department; or

(B) an employee of the department who:

(i) is a division or special office director or holds a higher rank; and

(ii) is designated by the director.

(3) "Hazardous material" has the meaning assigned by 49 U.S.C. Section 5102.

(4) "Household goods" has the meaning assigned by 49 U.S.C. Section 13102.

(5) "Insurer" means a person, including a surety, authorized in this state to write lines of insurance coverage required by this chapter.

(6) "Motor carrier" means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more vehicles that transport persons or cargo over a road or highway in this state.

(7) "Tow truck" means a motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch, or otherwise move another motor vehicle.

(8) "Vehicle requiring registration" means a vehicle described by Section 643.051.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Sec. 643.002. EXEMPTIONS. This chapter does not apply to:

(1) a motor vehicle registered under the single state registration system established under 49 U.S.C. Section 14504(c) when operating exclusively in interstate or international commerce;

(2) a motor vehicle registered as a cotton vehicle under Section 502.277;

(3) a motor vehicle the department by rule exempts because the vehicle is subject to comparable registration and a comparable safety program administered by another governmental entity;

(4) a motor vehicle used to transport passengers operated by an entity whose primary function is not the transportation of passengers, such as a vehicle operated by a hotel, day-care center, public or private school, nursing home, or similar organization;

(5) a vehicle operating under a private carrier permit issued under Chapter 42, Alcoholic Beverage Code; or

(6) a vehicle operated by a governmental entity.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.10(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 603, Sec. 1, eff. Aug. 30, 1999.

Sec. 643.003. RULES. The department may adopt rules to administer this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Sec. 643.004. PAYMENT OF FEES. (a) The department may adopt rules on the method of payment of a fee under this chapter, including:

(1) authorizing the use of:

(A) escrow accounts described by Subsection (b);

and

(B) electronic funds transfer or a credit card issued by a financial institution chartered by a state or the United States or by a nationally recognized credit organization approved by the department; and

(2) requiring the payment of a discount or service charge for a credit card payment in addition to the fee.

(b) The department may establish one or more escrow accounts in the state highway fund for the prepayment of a fee under this chapter. Prepaid fees and any fees established by the department for the administration of this section shall be:

(1) administered under an agreement approved by the department; and

(2) deposited to the credit of the state highway fund to be appropriated only to the department for the purposes of administering this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.11(a), eff. Sept. 1, 1999.

SUBCHAPTER B. REGISTRATION

Sec. 643.051. REGISTRATION REQUIRED. (a) A motor carrier may not operate a commercial motor vehicle, as defined by Section 548.001, or a tow truck on a road or highway of this state unless the carrier registers with the department under this subchapter.

(b) A motor carrier may not operate a vehicle, regardless of size of the vehicle, to transport household goods for compensation unless the carrier registers with the department under this subchapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 2005, 79th Leg., ch. 281, Sec. 6.01, eff. June 14, 2005.

Sec. 643.052. APPLICATION. To register under this subchapter a motor carrier must submit to the department an application on a form prescribed by the department. The application must include:

(1) the name of the owner and the principal business address of the motor carrier;

(2) the name and address of the legal agent for service of process on the carrier in this state, if different;

(3) a description of each vehicle requiring registration the carrier proposes to operate, including the motor vehicle identification number, make, and unit number;

(4) a statement as to whether the carrier proposes to transport household goods or a hazardous material;

(5) a declaration that the applicant has knowledge of all laws and rules relating to motor carrier safety, including this chapter, Chapter 644, and Subtitle C;

(6) a certification that the carrier is in compliance with the drug testing requirements of 49 C.F.R. Part 382, and if the carrier belongs to a consortium, as defined by 49 C.F.R. Part 382, the names of the persons operating the consortium; and

(7) any other information the department by rule determines is necessary for the safe operation of a motor carrier under this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 991, Sec. 9, eff. Sept. 1, 2003.

Sec. 643.053. FILING OF APPLICATION. An application under Section 643.052 must be filed with the department and accompanied by:

(1) an application fee of \$100 plus a \$10 fee for each vehicle requiring registration other than a tow truck or a \$25 fee for each tow truck the motor carrier proposes to operate;

(2) evidence of insurance or financial responsibility as required by Section 643.103(a); and

(3) any insurance filing fee required under Section 643.103(c).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1034, Sec. 4, eff. Sept. 1, 2003.

Sec. 643.054. DEPARTMENT APPROVAL; ISSUANCE OF CERTIFICATE. (a) The department shall register a motor carrier under this subchapter if the carrier complies with Sections 643.052 and 643.053. The department may deny a registration if the applicant has had a registration revoked under Section 643.252.

(b) The department shall issue a certificate containing a single registration number to a motor carrier, regardless of the number of vehicles requiring registration the carrier operates.

(c) To avoid multiple registrations of a single motor carrier, the department shall adopt simplified procedures for the registration of motor carriers transporting household goods as agents for carriers required to register under this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.12(a), eff. Sept. 1, 1999.

Sec. 643.055. CONDITIONAL ACCEPTANCE. (a) The department may conditionally accept an incomplete application for registration under this subchapter if the motor carrier complies

with Section 643.053.

(b) The department shall notify a motor carrier that an application is incomplete and inform the carrier of the information required for completion. If the motor carrier fails to provide the information before the 46th day after the date the department provides the notice, the application is considered withdrawn, and the department shall retain each fee required by Section 643.053(1).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Sec. 643.056. SUPPLEMENTAL REGISTRATION. (a) A motor carrier required to register under this subchapter shall supplement the carrier's application for registration before:

(1) the carrier transports a hazardous material or household goods if the carrier has not provided notice of the transportation to the department in the carrier's initial or a supplemental application for registration;

(2) the carrier operates a vehicle requiring registration that is not described on the carrier's initial or a supplemental application for registration; or

(3) the carrier changes the carrier's principal business address, legal agent, ownership, consortium, as defined by 49 C.F.R. Part 382, or name.

(b) The department shall prescribe the form of a supplemental application for registration under Subsection (a).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 991, Sec. 10, eff. Sept. 1, 2003.

Sec. 643.057. ADDITIONAL VEHICLES AND FEES. (a) A motor carrier may not operate an additional vehicle requiring registration unless the carrier pays a registration fee of \$10 for each additional vehicle other than a tow truck or \$25 for each tow truck and shows the department evidence of insurance or financial responsibility for the vehicle in an amount at least equal to the amount set by the department under Section 643.101.

(b) A motor carrier is not required to pay the applicable registration fee under Subsection (a) for a vehicle for which the same fee is required and that replaces a vehicle for which the fee has been paid.

(c) A registered motor carrier may not transport household goods or a hazardous material unless the carrier shows the department evidence of insurance or financial responsibility in an amount at least equal to the amount set by the department under Section 643.101 for a vehicle carrying household goods or a hazardous material.

(d) The department may not collect more than \$10 in equipment registration fees for a vehicle other than a tow truck registered under both this subchapter and Chapter 645 or more than \$25 if the vehicle is a tow truck.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1034, Sec. 5, eff. Sept. 1, 2003.

Sec. 643.058. RENEWAL OF REGISTRATION. (a) Except as provided in Section 643.061, a registration issued under this subchapter is valid for one year. The department may adopt a system under which registrations expire at different times during the year.

(b) At least 30 days before the date on which a motor carrier's registration expires, the department shall notify the carrier of the impending expiration. The notice must be in writing and sent to the motor carrier's last known address according to the records of the department.

(c) A motor carrier may renew a registration under this subchapter by:

(1) supplementing the application with any new information required under Section 643.056;

(2) paying a \$10 fee for each vehicle requiring registration other than a tow truck or a fee of \$25 for each tow truck the carrier operates; and

(3) providing the department evidence of continuing insurance or financial responsibility in an amount at least equal to the amount set by the department under Section 643.101.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.13(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 603, Sec. 2, eff. Aug.

30, 1999; Acts 2003, 78th Leg., ch. 1034, Sec. 6, eff. Sept. 1, 2003.

Sec. 643.059. CAB CARDS. (a) The department shall issue a cab card for each vehicle requiring registration. A cab card must:

- (1) show the registration number of the certificate issued under Section 643.054(b);
- (2) show the vehicle unit number;
- (3) show the vehicle identification number; and
- (4) contain a statement that the vehicle is registered to operate under this subchapter.

(b) The department shall issue cab cards at the time a motor carrier pays a registration fee under this subchapter. The department may charge a fee of \$1 for each cab card.

(c) A motor carrier required to register under this subchapter must keep the cab card in the cab of each vehicle requiring registration the carrier operates.

(d) The department may order a motor carrier to surrender a cab card if the carrier's registration is suspended or revoked under Section 643.252.

(e) If the department determines that the cab card system described by Subsections (a)-(c) is not an efficient means of enforcing this subchapter, the department by rule may adopt an alternative method that is accessible by law enforcement personnel in the field and provides for the enforcement of the registration requirements of this subchapter.

(f) A cab card or a vehicle registration issued under the alternative method described in Subsection (e) must be valid for the same duration of time as a motor carrier's certificate issued under Section 643.054(b) or Section 643.061(c)(1).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 603, Sec. 3, eff. Aug. 30, 1999.

Sec. 643.060. TEMPORARY REGISTRATION OF INTERNATIONAL MOTOR CARRIER. The department by rule may provide for the temporary registration of an international motor carrier that provides evidence of insurance as required for a domestic motor carrier. The department may charge a fee for a temporary registration in an amount not to exceed the cost of administering this section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Sec. 643.061. OPTIONAL REGISTRATION PERIODS. (a) The department may vary the registration period under this subchapter by adopting rules that provide for:

- (1) an optional two-year registration; and
- (2) an optional temporary registration that is valid for less than one year.

(b) A motor carrier applying for registration under this section must pay:

(1) a \$20 fee for each vehicle registered other than a tow truck or a fee of \$50 for each tow truck under Subsection (a)(1);

(2) a \$10 fee for each vehicle registered other than a tow truck or a fee of \$25 for each tow truck under Subsection (a)(2); and

(3) application and insurance filing fees the department by rule adopts in an amount not to exceed \$100 each.

(c) The department shall issue to a motor carrier registering under this section:

(1) a motor carrier's certificate, in the manner provided by Section 643.054; and

(2) a cab card or the equivalent of a cab card, in the manner provided by Section 643.059.

Added by Acts 1999, 76th Leg., ch. 603, Sec. 4, eff. Aug. 30, 1999. Amended by Acts 2003, 78th Leg., ch. 1034, Sec. 7, eff. Sept. 1, 2003.

Sec. 643.062. LIMITATION ON INTERNATIONAL MOTOR CARRIER. (a) A foreign-based international motor carrier required to register under this chapter or registered under Chapter 645 may not transport persons or cargo in intrastate commerce in this state.

(b) A person may not assist a foreign-based international motor carrier in violating Subsection (a).

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.14(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 603, Sec. 4, eff. Aug. 30, 1999.

Sec. 643.063. VEHICLES OPERATED UNDER SHORT-TERM LEASE AND

SUBSTITUTE VEHICLES. (a) In this section:

(1) "Leasing business" means a person that leases vehicles requiring registration.

(2) "Short-term lease" means a lease of 30 days or less.

(b) A vehicle requiring registration operated under a short-term lease is exempt from the registration requirements of Sections 643.052-643.059. The department shall adopt rules providing for the operation of these vehicles under flexible procedures. A vehicle requiring registration operated under a short-term lease is not required to carry a cab card or other proof of registration if a copy of the lease agreement is carried in the cab of the vehicle.

(c) A motor carrier may operate a substitute vehicle without notifying the department in advance if the substitute is a temporary replacement because of maintenance, repair, or other unavailability of the vehicle originally leased. A substitute vehicle is not required to carry a cab card or other proof of registration if a copy of the lease agreement for the vehicle originally leased is carried in the cab of the substitute.

(d) Instead of the registration procedures described by Sections 643.052-643.059, the department shall adopt rules that allow a leasing business to report annually to the department on the number of vehicles requiring registration that the leasing business actually operated in the previous 12 months. The rules may not require the vehicles operated to be described with particularity. The registration fee for each vehicle operated may be paid at the time the report is filed.

(e) A leasing business that registers its vehicles under Subsection (d) may comply with the liability insurance requirements of Subchapter C by filing evidence of a contingency liability policy satisfactory to the department.

(f) Rules adopted by the department under this section:

(1) must be designed to avoid requiring a vehicle to be registered more than once in a calendar year; and

(2) may allow a leasing business to register a vehicle on behalf of a lessee.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.15(a), eff. Sept. 1, 1999.

SUBCHAPTER C. INSURANCE

Sec. 643.101. AMOUNT REQUIRED. (a) A motor carrier required to register under Subchapter B shall maintain liability insurance in an amount set by the department for each vehicle requiring registration the carrier operates.

(b) Except as provided by Section 643.1015, the department by rule may set the amount of liability insurance required at an amount that does not exceed the amount required for a motor carrier under a federal regulation adopted under 49 U.S.C. Section 13906(a)(1). In setting the amount the department shall consider:

(1) the class and size of the vehicle; and

(2) the persons or cargo being transported.

(c) A motor carrier required to register under Subchapter B that transports household goods shall maintain cargo insurance in the amount required for a motor carrier transporting household goods under federal law.

(d) The owner of a tow truck that is used to perform nonconsent tows, as defined by Section 643.201, shall maintain on-hook cargo insurance in the amount of at least \$50,000 per truck.

(e) Unless state law permits a commercial motor vehicle to be self-insured, any insurance required for a commercial motor vehicle must be obtained from:

(1) an insurer authorized to do business in this state whose aggregate net risk, after reinsurance, under any one insurance policy is not in excess of 10 percent of the insurer's policyholders' surplus, and credit for such reinsurance is permitted by law; or

(2) an insurer that meets the eligibility requirements of a surplus lines insurer pursuant to Chapter 981, Insurance Code. Notwithstanding any other provision in law, an insurer in compliance with this subsection shall be deemed to be in compliance with any rating or financial criteria established for motor carriers by any political subdivision of the state.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1034, Sec. 8, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 144, Sec. 1, eff. May 24,

2005; Acts 2005, 79th Leg., ch. 728, Sec. 11.163, eff. Sept. 1, 2005.

Sec. 643.1015. AMOUNT REQUIRED FOR CERTAIN SCHOOL BUSES. (a) This section applies only to a school bus that:

(1) is owned by a motor carrier required to be registered under Subchapter B;

(2) is in compliance with the requirements of Chapter 548; and

(3) is operated exclusively within the boundaries of a municipality by a person who:

(A) holds a driver's license or commercial driver's license of the appropriate class required for the operation of the school bus; and

(B) meets the requirements of Section 521.022.

(b) The owner of a school bus shall maintain liability insurance in the amount of at least \$500,000 combined single limit.

(c) In this section, "school bus" means a motor vehicle that is operated by a motor carrier and used to transport preprimary, primary, or secondary school students on a route between the students' residences and a public, private, or parochial school or day-care facility.

Added by Acts 2005, 79th Leg., ch. 144, Sec. 2, eff. May 24, 2005.

Sec. 643.102. SELF-INSURANCE. A motor carrier may comply with Section 643.101 through self-insurance if the carrier demonstrates to the department that it can satisfy its obligations for liability for bodily injury or property damage. In the interest of public safety, the department by rule shall provide for a responsible system of self-insurance for a motor carrier.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Sec. 643.103. FILING; EVIDENCE OF INSURANCE; FEES. (a) A motor carrier that is required to register under Subchapter B must file with the department evidence of insurance in the amounts required by Section 643.101 or 643.1015, or evidence of financial responsibility as described by Section 643.102, in a form prescribed by the department. The form must be filed:

(1) at the time of the initial registration;

(2) at the time of a subsequent registration if the motor carrier was required to be continuously registered under Subchapter B and the carrier failed to maintain continuous registration;

(3) at the time a motor carrier changes insurers; and

(4) at the time a motor carrier changes ownership, as determined by rules adopted by the department.

(b) A motor carrier shall keep evidence of insurance in a form approved by the department in the cab of each vehicle requiring registration the carrier operates.

(c) The department may charge a fee of \$100 for a filing under Subsection (a).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 2005, 79th Leg., ch. 144, Sec. 3, eff. May 24, 2005.

Sec. 643.104. TERMINATION OF INSURANCE COVERAGE. (a) An insurer may not terminate coverage provided to a motor carrier registered under Subchapter B unless the insurer provides the department with notice at least 30 days before the date the termination takes effect.

(b) Notice under Subsection (a) must be in a form approved by the department and the Texas Department of Insurance. The department shall notify the Department of Public Safety and other law enforcement agencies of each motor carrier whose certificate of registration has been revoked for failing to maintain liability insurance coverage.

(c) The Department of Public Safety or a local law enforcement agency shall confirm that no operations are being performed by a motor carrier if notice has been received under Subsection (b) that the certificate of registration for that carrier has been revoked.

(d) A law enforcement officer may detain or impound any commercial vehicle operating without liability insurance until such coverage is properly filed with the department.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 163, Sec. 1, eff. Sept. 1, 2003.

Sec. 643.105. INSOLVENCY OF INSURER. If an insurer for a

motor carrier becomes insolvent, is placed in receivership, or has its certificate of authority suspended or revoked and if the carrier no longer has insurance coverage as required by this subchapter, the carrier shall file with the department, not later than the 10th day after the date the coverage lapses:

(1) evidence of insurance as required by Section 643.103; and

(2) an affidavit that:

(A) indicates that an accident from which the carrier may incur liability did not occur while the coverage was not in effect; or

(B) contains a plan acceptable to the department indicating how the carrier will satisfy claims of liability against the carrier for an accident that occurred while the coverage was not in effect.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Sec. 643.106. INSURANCE FOR EMPLOYEES. (a) Notwithstanding any provision of any law or regulation, a motor carrier that is required to register under Subchapter B and whose primary business is transportation for compensation or hire between two or more municipalities shall protect its employees by obtaining:

(1) workers' compensation insurance coverage as defined under Subtitle A, Title 5, Labor Code; or

(2) accidental insurance coverage approved by the department from:

(A) a reliable insurance company authorized to write accidental insurance policies in this state; or

(B) a surplus lines insurer under Chapter 981, Insurance Code.

(b) The department shall determine the amount of insurance coverage under Subsection (a)(2). The amount may not be less than:

(1) \$300,000 for medical expenses for at least 104 weeks;

(2) \$100,000 for accidental death and dismemberment;

(3) 70 percent of an employee's pre-injury income for at least 104 weeks when compensating for loss of income; and

(4) \$500 for the maximum weekly benefit.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.17(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 886, Sec. 1, eff. Aug. 30, 1999; Acts 2003, 78th Leg., ch. 1276, Sec. 10A.554, eff. Sept. 1, 2003.

SUBCHAPTER D. ECONOMIC REGULATION

Sec. 643.151. PROHIBITION. Except as provided by this subchapter, the department may not regulate the prices, routes, or services provided by a motor carrier.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Sec. 643.152. VOLUNTARY STANDARDS. The department may establish voluntary standards for uniform cargo liability, uniform bills of lading or receipts for cargo being transported, and uniform cargo credit. A standard adopted under this section must be consistent with Subtitle IV, Title 49, United States Code, or a regulation adopted under that law.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Sec. 643.153. MOTOR CARRIER TRANSPORTING HOUSEHOLD GOODS. (a) The department shall adopt rules to protect a consumer using the service of a motor carrier who is transporting household goods for compensation.

(b) The department may adopt rules necessary to ensure that a customer of a motor carrier transporting household goods is protected from deceptive or unfair practices and unreasonably hazardous activities. The rules must:

(1) establish a formal process for resolving a dispute over a fee or damage;

(2) require a motor carrier to indicate clearly to a customer whether an estimate is binding or nonbinding and disclose the maximum price a customer could be required to pay;

(3) create a centralized process for making complaints about a motor carrier that also allows a customer to inquire about a carrier's complaint record; and

(4) require a motor carrier transporting household goods to list a place of business with a street address in this

state and the carrier's registration number issued under this article in any print advertising published in this state.

(c) Repealed by Acts 2005, 79th Leg., ch. 281, Sec. 6.06.

(d) A motor carrier that is required to register under Subchapter B and that transports household goods shall file a tariff with the department that establishes maximum charges for transportation between two or more municipalities. A motor carrier may comply with this requirement by filing a copy of the carrier's tariff governing interstate transportation services on a highway between two or more municipalities. The department shall make tariffs filed under this subsection available for public inspection at the department.

(e) The department may not adopt rules regulating the rates, except as provided by this section, or routes of a motor carrier transporting household goods.

(f) The unauthorized practice of the insurance business under Chapter 101, Insurance Code, does not include the offer of insurance by a household goods motor carrier, or its agent, that transports goods for up to the full value of a customer's property transported or stored, if the offer is authorized by a rule adopted under Subsection (b).

(g) A motor carrier may designate an association or an agent of an association as its collective maximum ratemaking association for the purpose of the filing of a tariff under Subsection (d).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.19(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 603, Sec. 5, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1276, Sec. 10A.555, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 281, Sec. 6.02, 6.06, eff. June 14, 2005.

Sec. 643.154. ANTITRUST EXEMPTION. (a) Chapter 15, Business & Commerce Code, does not apply to a discussion or agreement between a motor carrier that is required to register under Subchapter B and that transports household goods and an agent of the carrier involving:

(1) the following matters if they occur under the authority of the principal carrier:

(A) a rate for the transportation of household goods;

(B) an access, terminal, storage, or other charge incidental to the transportation of household goods; or

(C) an allowance relating to the transportation of household goods; or

(2) ownership of the carrier by the agent or membership on the board of directors of the carrier by the agent.

(b) An agent under Subsection (a) may itself be a motor carrier required to register under Subchapter B.

(c) The department by rule may exempt a motor carrier required to register under Subchapter B from Chapter 15, Business & Commerce Code, for an activity relating to the establishment of a joint line rate, route, classification, or mileage guide.

(d) A motor carrier that is required to register under Subchapter B and that transports household goods, or an agent of the carrier, may enter into a collective ratemaking agreement with another motor carrier of household goods or an agent of that carrier concerning the establishment and filing of maximum rates, classifications, rules, or procedures. The agreement must be submitted to the department for approval.

(e) The department shall approve an agreement submitted under Subsection (d) if the agreement provides that each meeting of parties to the agreement is open to the public and that notice of each meeting must be given to customers who are multiple users of the services of a motor carrier that is a party to the agreement. The department may withhold approval of the agreement if it determines, after notice and hearing, that the agreement fails to comply with this subsection.

(f) Unless disapproved by the department, an agreement made under Subsection (d) is valid, and Chapter 15, Business & Commerce Code, does not apply to a motor carrier that is a party to the agreement.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Sec. 643.155. RULES ADVISORY COMMITTEE. (a) The department shall appoint a rules advisory committee consisting of representatives of motor carriers transporting household goods

using small, medium, and large equipment, the public, and the department.

(b) Members of the committee serve at the pleasure of the department and are not entitled to compensation or reimbursement of expenses for serving on the committee. The department may adopt rules to govern the operations of the advisory committee.

(c) The committee shall examine the rules adopted by the department under Sections 643.153(a) and (b) and make recommendations to the department on modernizing and streamlining the rules.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.19(b), eff. Sept. 1, 1999; Acts 2005, 79th Leg., ch. 281, Sec. 6.03, eff. June 14, 2005.

Sec. 643.156. REGULATION OF ADVERTISING. (a) The department may not by rule restrict competitive bidding or advertising by a motor carrier except to prohibit false, misleading, or deceptive practices.

(b) A rule to prohibit false, misleading, or deceptive practices may not:

(1) restrict the use of:

(A) any medium for an advertisement;

(B) a motor carrier's advertisement under a trade name; or

(C) a motor carrier's personal appearance or voice in an advertisement, if the motor carrier is an individual; or

(2) relate to the size or duration of an advertisement by a motor carrier.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.20(a), eff. Sept. 1, 1999.

SUBCHAPTER E. TOW TRUCKS

Sec. 643.201. TOW TRUCK REGULATION BY POLITICAL SUBDIVISIONS. (a) In addition to the registration requirements of Subchapter B, a political subdivision of this state may regulate the operation of a tow truck to the extent allowed by federal law, except that a political subdivision may not issue a more restrictive regulation for the use of lighting equipment on a tow truck than is imposed by this title.

(b) A political subdivision may not require the registration of a tow truck that performs consent tows in the political subdivision unless the owner of the tow truck has a place of business in the territory of the political subdivision.

(c) A political subdivision may require the registration of a tow truck that performs a nonconsent tow in the political subdivision, regardless of whether the owner of the tow truck has a place of business in the territory of the political subdivision.

(d) A political subdivision may not require a person who holds a driver's license or commercial driver's license to obtain a license or permit for operating a tow truck unless the person performs nonconsent tows in the territory of the political subdivision. A fee charged for a license or permit may not exceed \$15.

(e) In this section:

(1) "Commercial driver's license" has the meaning assigned by Section 522.003.

(2) "Consent tow" means any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.

(3) "Driver's license" has the meaning assigned by Section 521.001.

(4) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1303, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1034, Sec. 9, eff. Sept. 1, 2003.

Sec. 643.202. RULES ADVISORY COMMITTEE. (a) The department shall appoint a rules advisory committee to advise the department on adoption of rules regarding:

(1) the application of this chapter to tow trucks; and

(2) the administration by the department of Chapter

2303, Occupations Code.

(b) The department shall determine the size of the committee, but the committee must include one member who represents each of the following:

- (1) tow truck operators;
- (2) vehicle storage facility operators;
- (3) owners of property having parking facilities;
- (4) law enforcement agencies or municipalities;
- (5) insurance companies; and
- (6) the general public.

(c) Members of the committee serve at the pleasure of the department. A member of the committee is not entitled to compensation or reimbursement of expenses for serving as a member.

(d) The department may adopt rules to govern the operations of the committee.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.838, eff. Sept. 1, 2003.

Sec. 643.203. REGULATION BY POLITICAL SUBDIVISIONS OF FEES FOR NONCONSENT TOWS. The governing body of a political subdivision may regulate the fees that may be charged or collected in connection with a nonconsent tow originating in the territory of the political subdivision.

Added by Acts 2003, 78th Leg., ch. 1034, Sec. 10, eff. Sept. 1, 2003.

Sec. 643.204. TOWING FEE STUDIES. (a) The governing body of a political subdivision that regulates nonconsent tow fees shall establish procedures by which a towing company may request that a towing fee study be performed.

(b) The governing body of the political subdivision shall establish or amend the allowable fees for nonconsent tows at amounts that represent the fair value of the services of a towing company and are reasonably related to any financial or accounting information provided to the governing body.

Added by Acts 2003, 78th Leg., ch. 1034, Sec. 10, eff. Sept. 1, 2003.

Sec. 643.205. FEES FOR NONCONSENT TOWS IN OTHER AREAS. (a) In an area in which no political subdivision regulates the fees that may be charged or collected for a nonconsent tow from private property, a towing company may charge and collect a fee for the tow of a motor vehicle from private property in an amount not to exceed an amount equal to 150 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.

(b) A towing company may charge and collect a fee for the tow of a vehicle, with a gross vehicle weight rating in excess of 26,000 pounds, from private property in an amount not to exceed an amount equal to 125 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.

Added by Acts 2003, 78th Leg., ch. 1034, Sec. 10, eff. Sept. 1, 2003.

Sec. 643.206. STORAGE OF TOWED VEHICLES. (a) A towing company that makes a nonconsent tow shall tow the vehicle to a vehicle storage facility that is operated by a person who holds a license to operate the facility under Chapter 2303, Occupations Code, unless the towing company agrees to take the vehicle to a location designated by the vehicle's owner.

(b) A storage or notification fee imposed in connection with a motor vehicle towed to a vehicle storage facility is governed by Chapter 2303, Occupations Code.

(c) Except as provided by this chapter, Article 18.23, Code of Criminal Procedure, or Chapter 2303, Occupations Code, a fee may not be charged or collected without the prior written consent of the vehicle owner or operator.

Added by Acts 2003, 78th Leg., ch. 1034, Sec. 10, eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 1197, Sec. 5, eff. Sept. 1, 2005.

Sec. 643.207. REQUIRED FILING. (a) Before January 31 of each year, a towing company shall file with the department a schedule showing each towing fee that the towing company charges or collects in connection with a nonconsent tow.

(b) If a political subdivision begins regulating nonconsent

tow fees, the fees shall be reported to the department by the towing company before the 30th day after the regulation goes into effect.

(c) Any changes in nonconsent tow fees regulated by a political subdivision shall be reported to the department by the towing company before the 30th day after the effective date of the change.

(d) The department shall make towing fee schedules available on the department's Internet website. The department shall make no determination as to the reasonableness of a towing fee schedule.

Added by Acts 2003, 78th Leg., ch. 1034, Sec. 10, eff. Sept. 1, 2003.

Sec. 643.208. REQUIRED POSTING. All towing and storage fees shall be posted at the licensed vehicle storage facility to which the motor vehicle has been delivered and shall be posted in view of the person who claims the vehicle.

Added by Acts 2003, 78th Leg., ch. 1034, Sec. 10, eff. Sept. 1, 2003.

SUBCHAPTER F. ENFORCEMENT

Sec. 643.251. ADMINISTRATIVE PENALTY. (a) The department may impose an administrative penalty against a motor carrier required to register under Subchapter B that violates Subchapter B or C or Section 643.151, 643.152, 643.153(a)-(f), or 643.155 or a rule or order adopted under those provisions or Section 643.003. The department shall designate one or more employees to investigate violations and administer penalties under this section.

(b) Except as provided by this section, the amount of an administrative penalty may not exceed \$5,000. If it is found that the motor carrier knowingly committed the violation, the penalty may not exceed \$15,000. If it is found that the motor carrier knowingly committed multiple violations, the aggregate penalty for the multiple violations may not exceed \$30,000. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(c) The amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited act, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(d) If the department determines that a violation has occurred, it may issue to the director a report that states the facts on which the determination is based and a recommendation on the imposition and amount of any penalty.

(e) Before the 15th day after the date the report is issued, the department shall give written notice of the report to the motor carrier. The notice may be given by certified mail. The notice must include a brief summary of the alleged violation and a statement of the amount of the recommended penalty and must inform the motor carrier that the carrier has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(f) Before the 21st day after the date the motor carrier receives the notice, the carrier in writing may accept the determination and recommended penalty of the department or may make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty. The department may, on the request of the person, hold an informal hearing to discuss a penalty recommended under this section. The department may modify a recommendation for a penalty at the conclusion of the informal hearing.

(g) If the motor carrier accepts the determination and recommended penalty of the department, the director by order shall approve the determination and impose the recommended penalty.

(h) If the motor carrier requests a hearing or fails to respond timely to the notice, the department shall set a hearing and give notice of the hearing to the carrier. The hearing shall be held by an administrative law judge of the State Office of Administrative Hearings. The administrative law judge shall make

findings of fact and conclusions of law and promptly issue to the director a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty. Based on the findings of fact, conclusions of law, and proposal for a decision, the director by order may find that a violation has occurred and impose a penalty or may find that no violation occurred. The director may increase or decrease the amount of the penalty recommended by an administrative law judge within the limits prescribed by Subsection (b).

(i) The notice of the director's order given to the motor carrier under Chapter 2001, Government Code, must include a statement of the right of the carrier to judicial review of the order.

(j) Before the 31st day after the date the director's order becomes final as provided by Section 2001.144, Government Code, the motor carrier shall:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(k) Within the 30-day period, a motor carrier that acts under Subsection (j)(3) may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the director's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the director by certified mail.

(l) If the department receives a copy of an affidavit under Subsection (k)(2), it may file with the court, before the sixth day after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty if the court finds that the alleged facts are true. The motor carrier that files an affidavit has the burden of proving that the carrier is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(m) If the motor carrier does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the director may refer the matter to the attorney general for collection of the amount of the penalty.

(n) Judicial review of the order of the director:

(1) is instituted by filing a petition as provided by Subchapter G, Chapter 2001, Government Code; and

(2) is under the substantial evidence rule.

(o) If the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the penalty and order the motor carrier to pay the full or reduced amount of the penalty. If the court does not sustain the occurrence of the violation, the court shall order that no penalty is owed.

(p) When the judgment of the court becomes final, the court shall proceed under this subsection. If the motor carrier paid the amount of the penalty and if that amount is reduced or is not upheld by the court, the court shall order that the appropriate amount plus accrued interest be remitted to the person. The rate of the interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and the interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. If the motor carrier gave a supersedeas bond and if the penalty is not upheld by the court, the court shall order the release of the bond. If the motor carrier

gave a supersedeas bond and if the amount of the penalty is reduced, the court shall order the release of the bond after the carrier pays the amount.

(q) All proceedings under this section are subject to Chapter 2001, Government Code.

(r) In addition to a penalty proposed by an administrative law judge under Subsection (h), the administrative law judge shall include in the proposal for a decision a finding setting out costs, fees, expenses, and reasonable and necessary attorney's fees incurred by the state in bringing the proceeding. The director may adopt the finding and make it a part of a final order entered in the proceeding.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Sec. 643.252. SUSPENSION AND REVOCATION OF REGISTRATION. (a) The department may suspend or revoke a registration issued under this chapter or place on probation a motor carrier whose registration is suspended if a motor carrier:

(1) fails to maintain insurance or evidence of financial responsibility as required by Section 643.101(a), (b), (c), or (d);

(2) fails to keep evidence of insurance in the cab of each vehicle as required by Section 643.103(b);

(3) fails to register a vehicle requiring registration;

(4) knowingly provides false information on any form filed with the department under this chapter; or

(5) violates a rule adopted under Section 643.063.

(b) The Department of Public Safety may request that the department suspend or revoke a registration issued under this chapter or place on probation a motor carrier whose registration is suspended if a motor carrier has:

(1) an unsatisfactory safety rating under 49 C.F.R. Part 385; or

(2) multiple violations of Chapter 644, a rule adopted under that chapter, or Subtitle C.

(c) Except as provided by Subsection (d), a suspension or revocation or the imposition of probation made under Subsection (a) or (b) is a contested case under Chapter 2001, Government Code.

(d) The department may suspend or revoke a registration issued under this chapter or place on probation a motor carrier whose registration is suspended without a hearing under Chapter 2001, Government Code, if:

(1) the department provides notice to the motor carrier of:

(A) the proposed suspension or revocation; and

(B) the right of the carrier to request a hearing under Chapter 2001, Government Code; and

(2) the motor carrier fails to provide the department with a written request for a hearing before the 11th day after the date the carrier receives the notice described in Subdivision (1).

(e) If the suspension of a motor carrier's registration is probated, the department may require the carrier to report regularly to the department on any matter that is the basis of the probation.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.21(a), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1034, Sec. 11, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 281, Sec. 6.04, eff. June 14, 2005.

Sec. 643.253. OFFENSES AND PENALTIES. (a) A person commits an offense if the person fails to:

(1) register as required by Subchapter B;

(2) maintain insurance or evidence of financial responsibility as required by Subchapter C; or

(3) keep a cab card in the cab of a vehicle as required by Section 643.059.

(b) A person commits an offense if the person solicits the transportation of household goods for compensation and is not registered as required by Subchapter B.

(c) Except as provided by Subsection (e), an offense under this section is a Class C misdemeanor.

(d) A person commits an offense if the person:

(1) violates an ordinance, resolution, order, rule, or regulation of a political subdivision adopted under Section 643.201

or 643.203, for which the political subdivision does not prescribe the penalty;

(2) charges or collects a fee in a political subdivision that regulates the operation of tow trucks under Section 643.201 or 643.203 that is not authorized or is greater than the authorized amount of the fee;

(3) charges or collects a fee greater than the amount authorized under Section 643.205;

(4) charges or collects a fee in excess of the amount filed with the department under Section 643.207;

(5) violates Section 643.206; or

(6) violates a rule of the department applicable to a tow truck and towing company.

(e) An offense under Subsection (b) or (d) is a misdemeanor punishable by a fine of not less than \$200 or more than \$1,000 per violation.

(f) A peace officer may issue a citation for a violation under this section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.22(a), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1034, Sec. 12, 13, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 281, Sec. 6.05, eff. June 14, 2005.

Sec. 643.254. INSPECTION OF DOCUMENTS. (a) To investigate an alleged violation of Subchapter B, C, or D, an officer or employee of the department who has been certified for the purpose by the director may enter a motor carrier's premises to copy or verify the correctness of a document, including an operation log or insurance certificate.

(b) The officer or employee may conduct the inspection:

(1) at a reasonable time;

(2) after stating the purpose of the inspection; and

(3) by presenting to the motor carrier:

(A) appropriate credentials; and

(B) a written statement from the department to

the motor carrier indicating the officer's or employee's authority to inspect.

(c) A motor carrier domiciled outside this state must:

(1) designate a location in the state for inspection of records concerning the alleged violation; or

(2) request that an officer or employee of the department conduct the inspection at an office of the motor carrier located outside this state.

(d) A motor carrier requesting an out-of-state inspection will be responsible for payment of actual expenses incurred by the department in conducting the inspection.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 603, Sec. 6, eff. Aug. 30, 1999.