



GOV. MSG. NO. 777

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 3, 2008

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 3, 2008, the following bill was signed into law:

HB2954 SD1

A BILL FOR AN ACT RELATED TO TOWING.
(ACT 135)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

A BILL FOR AN ACT

RELATED TO TOWING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 290-11, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "**§290-11 Vehicles left unattended on private and public**
4 **property; sale or disposition of abandoned vehicles. (a)**
5 Notwithstanding any other provision of this chapter, any vehicle
6 left unattended on private or public property without
7 authorization of the owner or occupant of the property, may be
8 towed away at the expense of the owner of the vehicle, by order
9 of the owner, occupant, or person in charge of the property;
10 provided that there is posted a notice prohibiting vehicles to
11 park on the property without authorization. The notice shall
12 state that the vehicle will be towed and held at the expense of
13 the vehicle owner, as well as the name, address, and a telephone
14 number of the facility where the vehicle will be towed and held.
15 The notice shall be of such size and be placed in a location
16 that is clearly visible to the driver of a vehicle approaching
17 any individual marked or unmarked parking space; provided that
18 where an entire parking lot consists of restricted parking



1 spaces, placement of the notice at each entrance of the parking
2 lot shall suffice.

3 (b) Towing companies engaged by the owner, occupant, or
4 person in charge of the property shall:

5 (1) Charge not more than \$65 for a tow, or \$75 for a tow
6 using a dolly, plus a mileage charge of \$7.50 per mile
7 towed and \$25 per day or fraction thereof for storage
8 for the first seven days and \$20 per day thereafter.
9 When the tow occurs between the hours of six o'clock
10 p.m. and six o'clock a.m., from Monday through
11 Thursday and from six o'clock p.m. Friday to six
12 o'clock a.m. Monday, the towing company shall be
13 entitled to an overtime charge of \$15. If the vehicle
14 is in the process of being hooked up or is hooked up
15 to the tow truck and the owner appears on the scene
16 [~~before the vehicle has been moved by the tow truck~~],
17 the towing company shall unhook the vehicle[-] and
18 shall not charge any fee to the owner of the vehicle.
19 In the case of a difficult hookup, meaning an above or
20 below ground hookup in a multilevel facility, a towing
21 surcharge of \$30 shall be applicable;

22



1 (2) Determine the name of the legal owner and the
2 registered owner of the vehicle from the department of
3 transportation or the county department of finance.
4 The legal owner and the registered owner shall be
5 notified in writing at the address on record with the
6 department of transportation or with the county
7 department of finance by registered or certified mail
8 of the location of the vehicle, together with a
9 description of the vehicle, within a reasonable period
10 not to exceed fifteen days following the tow. The
11 notice shall state:

12 (A) The maximum towing charges and fees allowed by
13 law;

14 (B) The telephone number of the consumer information
15 service of the department of commerce and
16 consumer affairs; and

17 (C) That if the vehicle is not recovered within
18 thirty days after the mailing of the notice, the
19 vehicle shall be deemed abandoned and will be
20 sold or disposed of as junk.

21 Where the owners have not been so notified, then the
22 owner may recover the owner's car from the towing



1 company without paying tow or storage fees; provided
2 that the notice need not be sent to a legal or
3 registered owner or any person with an unrecorded
4 interest in the vehicle whose name or address cannot
5 be determined. Absent evidence to the contrary, a
6 notice shall be deemed received by the legal or
7 registered owner five days after the mailing. A
8 person, including but not limited to the owner's or
9 driver's insurer, who has been charged in excess of
10 the charges permitted under this section may sue for
11 damages sustained and, if the judgment is for the
12 plaintiff, the court shall award the plaintiff a sum
13 not to exceed the amount of the damages and reasonable
14 attorney's fees together with the cost of suit;

- 15 (3) Provide, when a vehicle is recovered by the owner
16 before written notice is sent by registered or
17 certified mail, the owner with a receipt stating:
- 18 (A) The maximum towing charges and fees allowed by
19 law; and
 - 20 (B) The telephone number of the consumer information
21 service of the department of commerce and
22 consumer affairs; [~~and~~]



1 and

2 (4) Accommodate payment by the owner for charges under
3 paragraph (1) by cash and by either credit card or
4 automated teller machine located on the premises.

5 (c) When a vehicle is not recovered within thirty days
6 after the mailing of the notice, it shall be deemed abandoned
7 and the owner of the towing company, or the owner of the towing
8 company's authorized representative, after one public
9 advertisement in a newspaper of general circulation in the
10 ~~[State,]~~ state, may negotiate a sale of the vehicle or dispose
11 of it as junk.

12 (d) The authorized seller of the vehicle shall be entitled
13 to the proceeds of the sale to the extent that compensation is
14 due the authorized seller for services rendered in respect to
15 the vehicle, including reasonable and customary charges for
16 towing, handling, storage, and the cost of the notices and
17 advertising required by this part. Any remaining balance shall
18 be forwarded to the legal or registered owner of the vehicle if
19 the legal or registered owner can be found. If the legal or
20 registered owner cannot be found, the balance shall be deposited
21 with the director of finance of the State and shall be paid out
22 to the legal or registered owner of the vehicle if a proper



1 claim is filed therefor within one year from the execution of
2 the sales agreement. If no claim is made within the year
3 allowed, the money shall become a state realization.

4 (e) The transfer of title and interest by sale under this
5 part is a transfer by operation of law; provided that if the
6 certificate of ownership or registration is unavailable, a bill
7 of sale executed by an authorized seller is satisfactory
8 evidence authorizing the transfer of the title or interest.

9 (f) Notwithstanding any law or ordinance to the contrary,
10 including subsection (g), and section 46-20.5, any towing
11 company engaged in towing in a county with a population greater
12 than five hundred thousand shall not be entitled to any overtime
13 charge under subsection (b)(1) if towing services to consumers
14 are not offered twenty-four hours per day every day of the week;
15 provided that a towing company shall file their hours of
16 operation with the police department in a county with a
17 population greater than five hundred thousand.

18 [~~f~~] (g) This section shall not apply to a county that
19 has adopted ordinances regulating towing operations."

20 SECTION 2. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22 SECTION 3. This Act shall take effect upon its approval.



H.B. NO. 2954
S.D. 1

APPROVED this 3 day of JUN, 2008



GOVERNOR OF THE STATE OF HAWAII