

JAN 22 2008

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# 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 to the tow truck  
15 and the owner appears on the scene before the vehicle  
16 has been moved by the tow truck, the towing company  
17 shall unhook the vehicle. In the case of a difficult  
18 hookup, meaning an above or below ground hookup in a  
19 multilevel facility, a towing surcharge of \$30 shall  
20 be applicable;

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

17          (3) Provide, when a vehicle is recovered by the owner  
18          before written notice is sent by registered or  
19          certified mail, the owner with a receipt stating:

20                (A) The maximum towing charges and fees allowed by  
21                law; and



1 (B) The telephone number of the consumer information  
2 service of the department of commerce and  
3 consumer affairs; [~~and~~]

4 and

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

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

15 (d) The authorized seller of the vehicle shall be entitled  
16 to the proceeds of the sale to the extent that compensation is  
17 due the authorized seller for services rendered in respect to  
18 the vehicle, including reasonable and customary charges for  
19 towing, handling, storage, and the cost of the notices and  
20 advertising required by this part. Any remaining balance shall  
21 be forwarded to the legal or registered owner of the vehicle if  
22 the legal or registered owner can be found. If the legal or



1 registered owner cannot be found, the balance shall be deposited  
2 with the director of finance of the State and shall be paid out  
3 to the legal or registered owner of the vehicle if a proper  
4 claim is filed therefor within one year from the execution of  
5 the sales agreement. If no claim is made within the year  
6 allowed, the money shall become a state realization.

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

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

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



# S.B. NO. 2914

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

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

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INTRODUCED BY:

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**Report Title:**

Towing fees; Towing companies

**Description:**

Allows towing companies to charge overtime fees during certain hours of operations. Requires tow companies operating in a county with a population of 500,000 or more to offer consumer service 24 hours a day.

