

JAN 28 2009

S.B. NO. 1242

---

---

# A BILL FOR AN ACT

RELATING TO MOTOR VEHICLES.

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

1           SECTION 1. The purpose of this Act is to permit towing  
2 companies to add the applicable general excise tax to the fees  
3 charged to the owner of a motor vehicle left unattended on  
4 private or public property without authorization of the owner or  
5 occupant of the property. Previously, towing companies were  
6 advised by authorities that the general excise tax could not be  
7 added to the towing fees.

8           SECTION 2. Section 290-11, Hawaii Revised Statutes, is  
9 amended by amending subsection (b) to read as follows:

10           "(b) Towing companies engaged by the owner, occupant, or  
11 person in charge of the property shall:

12           (1) Charge not more than \$65 for a tow, or \$75 for a tow  
13 using a dolly, plus a mileage charge of \$7.50 per mile  
14 towed and \$25 per day or fraction thereof for storage  
15 for the first seven days and \$20 per day  
16 thereafter~~[-]~~, plus a charge that reflects the amount  
17 of the general excise tax and county surcharge, if  
18 applicable, relative to the charges. When the tow



1 occurs between the hours of six o'clock p.m. and six  
2 o'clock a.m., from Monday through Thursday and from  
3 six o'clock p.m. Friday to six o'clock a.m. Monday,  
4 the towing company shall be entitled to an overtime  
5 charge of \$15. If the vehicle is in the process of  
6 being hooked up or is hooked up to the tow truck and  
7 the owner appears on the scene, the towing company  
8 shall unhook the vehicle and shall not charge any fee  
9 to the owner of the vehicle. In the case of a  
10 difficult hookup, meaning an above or below ground  
11 hookup in a multilevel facility, a towing surcharge of  
12 \$30 shall be applicable;

- 13 (2) Determine the name of the legal owner and the  
14 registered owner of the vehicle from the department of  
15 transportation or the county department of finance.  
16 The legal owner and the registered owner shall be  
17 notified in writing at the address on record with the  
18 department of transportation or with the county  
19 department of finance by registered or certified mail  
20 of the location of the vehicle, together with a  
21 description of the vehicle, within a reasonable period



1 not to exceed fifteen days following the tow. The  
2 notice shall state:

3 (A) The maximum towing charges and fees allowed by  
4 law;

5 (B) The telephone number of the consumer information  
6 service of the department of commerce and  
7 consumer affairs; and

8 (C) That if the vehicle is not recovered within  
9 thirty days after the mailing of the notice, the  
10 vehicle shall be deemed abandoned and will be  
11 sold or disposed of as junk.

12 Where the owners have not been so notified, then the  
13 owner may recover the owner's [~~ear~~] vehicle from the  
14 towing company without paying tow or storage fees;  
15 provided that the notice need not be sent to a legal  
16 or registered owner or any person with an unrecorded  
17 interest in the vehicle whose name or address cannot  
18 be determined. Absent evidence to the contrary, a  
19 notice shall be deemed received by the legal or  
20 registered owner five days after the mailing. A  
21 person, including but not limited to the owner's or  
22 driver's insurer, who has been charged in excess of



1 the charges permitted under this section may sue for  
2 damages sustained and, if the judgment is for the  
3 plaintiff, the court shall award the plaintiff a sum  
4 not to exceed the amount of the damages and reasonable  
5 attorney's fees together with the cost of suit;

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

9 (A) The maximum towing charges and fees allowed by  
10 law; and

11 (B) The telephone number of the consumer information  
12 service of the department of commerce and  
13 consumer affairs; and

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

17 SECTION 3. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect upon its approval.

20  
INTRODUCED BY:



**Report Title:**

Motor Vehicle Towing; General Excise Tax Pass Along

**Description:**

Authorizes motor vehicle towing companies to add the general excise tax to the fees charged to the owner of a motor vehicle left unattended on private or public property.

