
A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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[-]; tire**
5 **boots.** (a) Notwithstanding any other provision of this
6 chapter, any vehicle left unattended on private or public
7 property without authorization of the owner or occupant of the
8 property, may be towed away at the expense of the owner of the
9 vehicle, by order of the owner, occupant, or person in charge of
10 the property; provided that there is posted a notice prohibiting
11 vehicles to park on the property without authorization. The
12 notice shall state that the vehicle will be towed and held at
13 the expense of the vehicle owner, as well as the name, address,
14 and a telephone number of the facility where the vehicle will be
15 towed and held. The notice shall be of such size and be placed
16 in a location that is clearly visible to the driver of a vehicle
17 approaching any individual marked or unmarked parking space;
18 provided that where an entire parking lot consists of restricted



1 parking spaces, placement of the notice at each entrance of the
2 parking 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 the towing company shall unhook the vehicle and shall
17 not charge any fee to the owner of the vehicle. In
18 the case of a difficult hookup, meaning an above or
19 below ground hookup in a multilevel facility, a towing
20 surcharge of \$30 shall be applicable;

21 (2) Determine the name of the legal owner and the
22 registered owner of the vehicle from the department of



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

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

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

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

19 Where the owners have not been so notified, then the
20 owner may recover the owner's car from the towing
21 company without paying tow or storage fees; provided
22 that the notice need not be sent to a legal or



1 registered owner or any person with an unrecorded
2 interest in the vehicle whose name or address cannot
3 be determined. Absent evidence to the contrary, a
4 notice shall be deemed received by the legal or
5 registered owner five days after the mailing. A
6 person, including but not limited to the owner's or
7 driver's insurer, who has been charged in excess of
8 the charges permitted under this section may sue for
9 damages sustained and, if the judgment is for the
10 plaintiff, the court shall award the plaintiff a sum
11 not to exceed the amount of the damages and reasonable
12 attorney's fees together with the cost of suit;

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

16 (A) The maximum towing charges and fees allowed by
17 law; and

18 (B) The telephone number of the consumer information
19 service of the department of commerce and
20 consumer affairs; and



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

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

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



1 the sales agreement. If no claim is made within the year
2 allowed, the money shall become a state realization.

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

8 (f) Notwithstanding any law or ordinance to the contrary,
9 including subsection [~~(g)~~] (h), and section 46-20.5, any towing
10 company engaged in towing in a county with a population greater
11 than five hundred thousand shall offer towing services to
12 consumers twenty-four hours per day every day of the week, which
13 services shall include the release of vehicles kept in storage
14 to a registered owner, legal owner, insurer, or a designated
15 representative.

16 (g) Any person or entity, excluding a towing company, that
17 applies a wheel boot to any vehicle situated on property owned,
18 rented, or leased by that person or entity may charge the
19 vehicle owner or driver a fee for unlocking the boot; provided
20 that the charge shall not exceed \$25 and shall not be shared
21 with other persons or entities; provided further that the person



1 or entity shall be subject to all applicable taxes on any
2 charges received to remove the boot.

3 For purposes of this subsection, "wheel boot" includes a
4 tire lock, denver boot, wheel clamp, or wheel immobilizer.

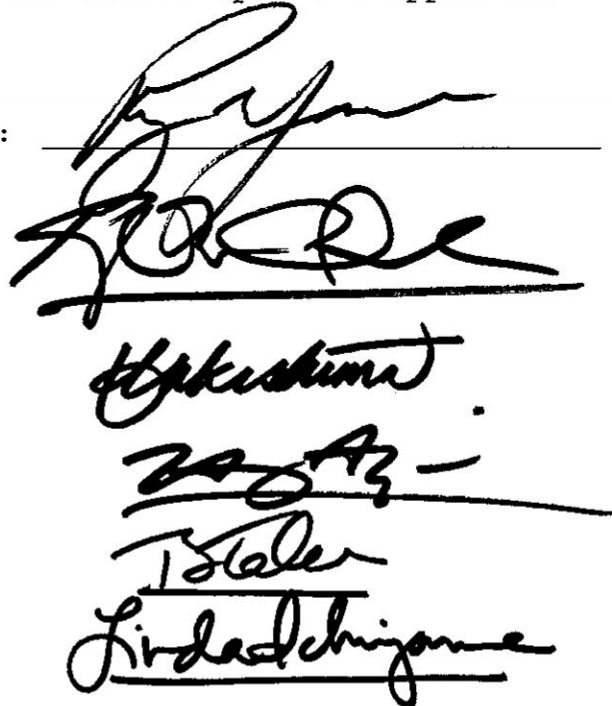
5 [~~g~~] (h) This section shall not apply to a county that
6 has adopted ordinances regulating towing operations."

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

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

10

INTRODUCED BY:



JAN 23 2013



H.B. NO. 1100

Report Title:

Car Booting; Counties; Wheel Boot; Tire Lock

Description:

Allows any person or entity, other than a towing company, that has applied a wheel boot, tire lock, denver boot, wheel clamp, or wheel immobilizer on any vehicle that is left unattended without authorization on a property owned, leased, or rented by that person or entity to charge the vehicle owner or driver a fee for unlocking the boot. Prohibits the charge from exceeding \$25 and from being shared with other persons or entities.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



Memo Opposing HB 1100

I am Opposed to HB 1100. I am Agent 292, and I supervise all on site operations for Hawaii Boot Removal, which is a DBA under Courtesy Valet Service. I have been working for this company for the past year now, enforcing parking regulations at various locations.

The Proposed bill HB 1100 on P.6 Line 16 states ..."any person or entity excluding a tow company is capped to a \$25 boot fee." If I understand correctly this means that only tow companies will be allowed to charge a higher fee for removal of a vehicular boot. This is unfair because the job I have of removing boots is not the easiest.

On a day to day basis we are constantly ridiculed for the work we do. I have had people spit in my face, throw money at my chest, and threaten my well being, as well as my family. But I have to always remain calm, and understand that I am just doing my job. Not just anybody off the street, or tow company, can do the job I do, and remain professional after receiving all the verbal and emotional abuse on the daily basis. \$25 dollars a boot removal will certainly end my job, and I fear for the parking violators who will have to deal with the incoming Boot removers who don't possess the people, and professional skills that our company stresses.

Hawaii State Towing Association

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February 5, 2013

Representative Ryan I Yamane, Chair
Representative Linda Ichiyama, Vice Chair
Committee on Transportation
State Capitol, Room 229
Honolulu, HI 96813

RE: HB1100, Relating to Transportation

Dear Chair Yamane, Vice Chair Ichiyama and Members of the Committee:

We speak in favor of this bill. The problem of illegal parking (both private and public) is not new to anyone, and any retailer will tell you that available parking is critical to survival. It is well known that vehicles that occupy valuable, and many time scarce parking without doing business may cause financial harm by not allowing paying customers access to said business.

Historically, businesses are required by law to post signs containing specific verbiage regarding parking policies, and consequences to ignoring those rules. Normally, this would involve vehicle removal by a contracted tow company, thereby removing the offending vehicle and opening the private property stall for the business' customers.

Most businesses are reluctant to tow errant vehicles, due to bad publicity, however it is necessary to keep valuable parking available for customers. Towing accomplishes two purposes; 1) it is done at no charge to the business, and, 2) it opens up the stall for other customers to park.

Booting does not accomplish business' objective of opening customer parking. Basically it turns parking lots into revenue sources for the booting company, since a booted car is not removed, it is simply immobilized. Currently, there is no regulation of booting practices and /or companies. This opens the door to **rogue private sector booters to victimize motorists by demanding unregulated and exorbitant cash points for release of their vehicle. This bullying intimidates motorists into paying excessive fines and succumbing to outrageous practices.**

Current tow companies have worked diligently with law makers over the years to arrive at industry standards and fees for services provided. Significant time has been spent establishing corrective action against errant vehicle parking in a fair and reasonable manner. That reputation and history are now at risk with unregulated booting. Are we willing to establish a whole new set of HRS regulations to address booting? If so passage of this bill is a start.

Respectfully Submitted,

Jan Wakayama
President



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

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DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION
TO THE HOUSE COMMITTEE ON TRANSPORTATION
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2013
WEDNESDAY, FEBRUARY 6, 2013
9:30 A.M.

TESTIMONY ON HOUSE BILL NO. 1100, RELATING TO TRANSPORTATION.

TO THE HONORABLE RYAN I. YAMANE, CHAIR,
AND TO THE HONORABLE LINDA ICHiyAMA, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs' ("DCCA") Office of Consumer Protection ("OCP") appreciates the opportunity to appear today and testify on House Bill 1100, Relating to Transportation. My name is Bruce B. Kim and I am the Executive Director of OCP. **OCP has concerns and offers comments on H.B 1100.**

H.B. 1100 amends HRS § 290-11 by adding a new subsection (g) which allows any person or entity, excluding a towing company, who applies a wheel boot to any vehicle situated on property owned, rented or leased by that person or entity, may charge the vehicle owner or driver a fee of \$25.00 to remove the boot, which shall not

be shared with other persons or entities and requires the person or entity to pay all applicable taxes on any charges received to remove the boot.

OCP wishes to note that H.B. 1100 as written is inconsistent with the requirements of the existing towing statute. It does not address many of the other provisions in HRS § 290-11 which are not amended by this bill. For instance, it does not require mandatory disclosures in posted signage which is required for towing. Therefore, the bill as drafted sets up the situation that requires the landowner to disclose that the vehicle will be towed and held at the expense of the owner, as well as the name, address, and telephone number of the facility where the vehicle will be towed and held. HRS § 290-11(a). However, there is no corresponding mandatory disclosures in posted signage applicable to booting of vehicles in the proposed bill.

As drafted, the practice of booting as it exists today is inconsistent with the criminal tampering statute found in HRS § 708-827(1)(a), Criminal Tampering in the Second Degree. As a policy issue, making such conduct exempt from existing criminal statutes should be carefully considered.

OCP believes that landowners already possess the power under existing law to remove unattended and unauthorized vehicles from their property. They can post a notice pursuant to the existing statute and retain a towing company to remove unauthorized vehicles in compliance with all required disclosures and consumer protection provisions under existing law. The bill as written would exempt booters from the criminal tampering law, allow them to boot without having to comply with any of the

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February 6, 2013
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disclosure and other consumer protections found in § 290-11, and heighten the risk of questionable interpretations of the law to the detriment of ordinary consumers. It is clear that this is not the legislative intent of this proposal, however it is important to note the potential impact to consumers.

Thank you for the opportunity to testify on H.B. 1100. I will be happy to answer any questions that the members of the Committee may have.