
A BILL FOR AN ACT

RELATING TO MOTOR VEHICLES.

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

1 SECTION 1. Chapter 291C, Hawaii Revised Statutes, is
2 amended by adding a new section to part XV to be appropriately
3 designated and to read as follows:

4 "§291C- Motor vehicle towing and storage; violations.

5 (a) A police officer citing or arresting a driver for any of
6 the following traffic violations may have the motor vehicle that
7 the driver was operating at the time of the citation or arrest
8 towed to a private tow yard and impounded at the registered
9 owner's expense pursuant to section 291C-165.5(a):

10 (1) Fraudulent use of plates, tags, or emblems, pursuant
11 to section 249-11;

12 (2) Driving without a license, pursuant to section 286-
13 102;

14 (3) Driving while license is suspended or revoked,
15 pursuant to section 286-132;

16 (4) Operating a vehicle under the influence of an
17 intoxicant, pursuant to section 291E-61;



- 1 (5) Habitually operating a vehicle under the influence of
2 an intoxicant, pursuant to section 291E-61.5;
- 3 (6) Operating a vehicle after license and privilege have
4 been suspended or revoked for operating a vehicle
5 under the influence of an intoxicant, pursuant to
6 section 291E-62; or
- 7 (7) Operating a vehicle after consuming a measurable
8 amount of alcohol; persons under the age of twenty-
9 one, pursuant to section 291E-64.
- 10 (b) Vehicles shall not be towed or impounded pursuant to
11 this section under any of the following circumstances:
- 12 (1) The motor vehicle is parked on private property on
13 which the registered owner or operator is legally
14 residing, or the property owner does not object to the
15 motor vehicle being left in the parked location;
- 16 (2) The registered owner or a passenger present in the
17 vehicle when the operator is arrested, or when a
18 summons or citation is issued, has a valid driver's
19 license and is willing and legally able to operate the
20 motor vehicle;



1 (3) The motor vehicle is legally parked at a time and
2 place where the likelihood of it being subject to
3 theft or vandalism is remote and traffic or public
4 safety is not impeded; or

5 (4) The motor vehicle is engaged in community caretaking
6 at the time of the encounter. As used in this
7 paragraph, "community caretaking" means any situation
8 in which a law enforcement officer is using the
9 vehicle for a consensual police-citizen encounter that
10 is unrelated to the investigation or detection of any
11 criminal activity.

12 (c) No county police department or police officer shall be
13 responsible for the protection of a motor vehicle left on any
14 public way or private property after the motor vehicle's
15 operator has been arrested for a violation listed in subsection
16 (a)."

17 SECTION 2. Section 291C-165.5, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§291C-165.5 Motor vehicle towing and storage; settlement.**

20 (a) Notwithstanding any other provision of this chapter, any
21 vehicle identified for removal pursuant to any county ordinance



1 or section 291C- ordering or authorizing removal of motor
2 vehicles by any county police department for traffic violations,
3 including a vehicle [~~which~~] that constitutes an obstruction or
4 hazard to traffic, may be towed away at the expense of the
5 registered owner of the vehicle, as provided by this section.

6 (b) The towing company shall determine the name of the
7 lien holder and the registered owner of the vehicle from the
8 department of transportation or the county department of
9 finance. The lien holder and the registered owner shall be
10 notified by the towing company in writing at the address on
11 record with the department of transportation or with the county
12 department of finance by registered or certified mail of the
13 location of the vehicle, together with a description of the
14 vehicle, within a reasonable period not to exceed twenty days
15 following the tow. The notice shall state:

- 16 (1) The maximum towing charges and fees allowed by law;
17 (2) The telephone number of the county finance department
18 that arranged for or authorized the tow; [~~and~~]
19 (3) That if the vehicle is not recovered within thirty
20 days after the mailing of the notice, the vehicle



1 shall be deemed abandoned and will be sold or disposed
2 of as junk [-];and

3 (4) That the lien holder or registered owner may:

4 (A) Recover possession of the vehicle by paying the
5 towing and other fees allowed by law and file a
6 lawsuit for damages with any court of competent
7 jurisdiction as allowed by law; and

8 (B) Demand an administrative hearing, before or after
9 the person has recovered possession of the
10 vehicle pursuant to subparagraph (A), to
11 determine whether there was a sufficient factual
12 and legal basis for removing the vehicle.

13 Any towing company engaged in towing pursuant to this section
14 shall comply with the requirements of section 291C-135. When
15 the vehicle is recovered after the tow by the registered owner
16 or lien holder, the party recovering the vehicle shall pay the
17 tow and storage charges which shall not exceed the charges as
18 provided by section 290-11(b) or the rates agreed upon with the
19 respective counties, whichever is lower, except that tow
20 operators may charge additional reasonable amounts for
21 excavating vehicles from off-road locations; provided that if



1 the notice required by this section was not sent within twenty
2 days after the tow, neither the registered owner nor the lien
3 holder shall be required to pay the tow and storage charges. No
4 notice shall be sent to a legal or registered owner or any
5 person with any unrecorded interest in the vehicle whose name or
6 address cannot be determined. A person, including but not
7 limited to the owner's or driver's insurer, who has been charged
8 in excess of the charges permitted under this section may sue
9 for damages sustained, and, if the judgment is for the
10 plaintiff, the court shall award the plaintiff a sum not to
11 exceed the amount of these damages and reasonable attorney's
12 fees together with the cost of the suit.

13 (c) The lien holder and the registered owner shall have
14 ten days after receipt of the notice provided pursuant to
15 subsection (b) to request in writing an administrative hearing
16 pursuant to chapter 91 from the county police department that
17 caused the vehicle to be removed. The administrative hearing
18 shall be conducted for the sole purpose of allowing the lien
19 holder or registered owner of an impounded vehicle to contest
20 the basis given for the impoundment of the vehicle. The hearing



1 shall be held within five working days of the county police
2 department's receipt of the written request.

3 ~~[(e)]~~ (d) When a vehicle is recovered by the owner or lien
4 holder before written notice is sent by registered or certified
5 mail, the towing company shall provide the owner or lien holder
6 with a receipt stating the maximum towing charges and fees
7 allowed by law and the telephone number of the county finance
8 department that arranged for or authorized the tow.

9 ~~[(d)]~~ (e) When a vehicle is not recovered within thirty
10 days after the mailing of the notice, it shall be deemed
11 abandoned and the owner of the towing company, or the owner of
12 the towing company's authorized representative, after one
13 statewide public notice as required in section 1-28.5, may
14 negotiate a sale of the vehicle or dispose of it as junk.

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



1 holder of the vehicle if the registered owner or lien holder is
2 found. If the registered owner or lien holder cannot be found,
3 the balance shall be deposited with the director of finance of
4 the State and shall be paid out to the registered owner or lien
5 holder of the vehicle if a proper claim is filed therefor within
6 one year from the execution of the sales agreement. The lien
7 holder shall have first priority to the funds to the extent of
8 the lien holder's claim. If no claim is made within the year
9 allowed, the money shall escheat to the State.

10 [~~f~~] (g) The transfer of title and interest by sale under
11 this section is a transfer by operation of law; provided that if
12 the certificate of ownership or registration is unavailable, a
13 bill of sale executed by an authorized seller is satisfactory
14 evidence authorizing the transfer of the title or interest.

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

17 SECTION 3. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



H.B. NO. 1747

1 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

Cindy Evans
Blakustona
[Signature]

JAN 21 2016



H.B. NO. 1747

Report Title:

Motor Vehicles; Violations; Towing; Driving Under the Influence

Description:

Authorizes a police officer to cause to be towed a motor vehicle if the operator is arrested or cited for various traffic offenses, including driving under the influence of an intoxicant. Provides exceptions. Provides notice and hearing requirements.

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

