
A BILL FOR AN ACT

RELATING TO TOWING.

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

1 SECTION 1. The legislature finds that section 290-11,
2 Hawaii Revised Statutes, was enacted in 1973 to address the
3 towing of vehicles left unattended on private and public
4 property. Since then, section 290-11, Hawaii Revised Statutes,
5 has been amended twenty-one times. The amendments have changed
6 the amount of allowable fees, signage and notification
7 requirements, and other important issues related to towing
8 vehicles.

9 In 2007, the legislature took notice of complaints
10 regarding "unhooking" fees, and Act 269, Session Laws of Hawaii
11 2007, eliminated such fees "when an owner appears on the scene
12 to recover a vehicle".

13 The legislature further finds that section 290-11, Hawaii
14 Revised Statutes, uses multiple terms for "owner", resulting in
15 confusion as to who may recover a vehicle that is hooked up or
16 has been towed to a tow company's yard.

17 The purpose of this Act is to provide a definition section
18 to section 290-11, Hawaii Revised Statutes, to address questions



1 of vehicle ownership and normalize the usage of the term
2 "vehicle owner" in order to enable permissive users and renters
3 to avail themselves of the protections envisioned by the
4 legislature when Act 269, Session Laws of Hawaii 2007, became
5 enacted.

6 SECTION 2. Section 290-11, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§290-11 Vehicles left unattended on private and public**
9 **property; sale or disposition of abandoned vehicles. (a) For**
10 the purposes of this section:

11 "Hooked up" means attached to the tow truck and securely
12 fastened by means of clamps, ropes, straps, cargo nets, or other
13 suitable mechanical device to prevent the vehicle from dropping
14 off of the tow truck or from shifting in any manner.

15 "Scene" refers to the following from which a vehicle is
16 being towed:

- 17 (1) A parking stall on a public street or in a public or
18 private parking lot;
- 19 (2) A particular spot on any property; or
- 20 (3) A spot curbside on a street in the case of a vehicle
21 blocking a driveway, including partially;



1 For purposes of a tow truck hooking up a vehicle, the "scene"
2 includes a radius of four feet around the vehicle being towed
3 unless the vehicle is hooked up on a public street under
4 paragraph (1) or curbside under paragraph (3).

5 "Vehicle owner" means the legal or registered owner of the
6 vehicle, a person renting the vehicle pursuant to chapter 437D,
7 or any person in possession of the key or remote keyless
8 ignition system to the vehicle.

9 ~~[(a)]~~ (b) Notwithstanding any other provision of this
10 chapter, any vehicle left unattended on private or public
11 property without authorization of the owner or occupant of the
12 property, may be towed away at the expense of the ~~[owner of the~~
13 ~~vehicle,]~~ vehicle owner, by order of the owner, occupant, or
14 person in charge of the property; provided that there is posted
15 a notice prohibiting vehicles to park on the property without
16 authorization. The notice shall state that the vehicle will be
17 towed and held at the expense of the vehicle owner, as well as
18 the name, address, and a telephone number of the facility where
19 the vehicle will be towed and held. The notice shall be of such
20 size and be placed in a location that is clearly visible to the
21 driver of a vehicle approaching any individual marked or



1 unmarked parking space; provided that where an entire parking
2 lot consists of restricted parking spaces, placement of the
3 notice at each entrance of the parking lot shall suffice.

4 ~~[(b)]~~ (c) Towing companies engaged by the owner, occupant,
5 or person in charge of the property shall:

6 (1) Charge not more than \$65 for a tow, or \$75 for a tow
7 using a dolly, plus a mileage charge of \$7.50 per mile
8 towed and \$25 per day or fraction thereof for storage
9 for the first seven days and \$20 per day thereafter.

10 In the case of a difficult hookup, meaning an above or
11 below ground hookup in a multilevel facility, a towing
12 surcharge of \$30 shall be applicable. When the tow
13 occurs between the hours of six o'clock p.m. and six
14 o'clock a.m., from Monday through Thursday and from
15 six o'clock p.m. Friday to six o'clock a.m. Monday,
16 the towing company shall be entitled to an overtime
17 charge of \$15. If the vehicle is in the process of
18 being hooked up or is hooked up to the tow truck and
19 the vehicle owner appears on the scene, the towing
20 company shall ~~[unhook]~~ release the vehicle to the
21 vehicle owner and shall not charge any fee to the



1 vehicle owner [~~of the vehicle. In the case of a~~
2 ~~difficult hookup, meaning an above or below ground~~
3 ~~hookup in a multilevel facility, a towing surcharge of~~
4 ~~\$30 shall be applicable]; provided that a date and
5 time stamped photograph of the hooked up vehicle at
6 the scene, showing the license plate of the vehicle,
7 shall be evidence that the vehicle is hooked up as
8 defined in this section;~~

- 9 (2) Determine the name of the [~~legal owner and the~~
10 ~~registered owner of the]~~ vehicle owner from the
11 department of transportation or the county department
12 of finance. The [~~legal owner and the registered]~~
13 vehicle owner shall be notified in writing at the
14 address on record with the department of
15 transportation or with the county department of
16 finance by registered or certified mail of the
17 location of the vehicle, together with a description
18 of the vehicle, within a reasonable period not to
19 exceed fifteen days following the tow. The notice
20 shall state:



- 1 (A) The maximum towing charges and fees allowed by
- 2 law;
- 3 (B) The telephone number of the consumer information
- 4 service of the department of commerce and
- 5 consumer affairs; and
- 6 (C) That if the vehicle is not recovered within
- 7 thirty days after the mailing of the notice, the
- 8 vehicle shall be deemed abandoned and will be
- 9 sold or disposed of as junk.

10 Where the ~~[owners have]~~ vehicle owner has not been so
 11 notified, then the vehicle owner may recover the
 12 ~~[owner's car]~~ vehicle from the towing company without
 13 paying any tow or storage fees; provided that the
 14 notice need not be sent to a legal or registered owner
 15 or any person with an unrecorded interest in the
 16 vehicle whose name or address cannot be determined.
 17 Absent evidence to the contrary, a notice shall be
 18 deemed received by the ~~[legal or registered]~~ vehicle
 19 owner five days after the mailing. [A] Any person,
 20 including but not limited to the vehicle owner's or
 21 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 vehicle
7 owner before written notice is sent by registered or
8 certified mail, the vehicle owner with a receipt
9 stating:

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

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

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

18 [~~e~~] (d) When a vehicle is not recovered within thirty
19 days after the mailing of the notice, it shall be deemed
20 abandoned and the owner of the towing company, or the owner of
21 the towing company's authorized representative, after one public



1 advertisement in a newspaper of general circulation in the
2 State, may negotiate a sale of the vehicle or dispose of it as
3 junk.

4 ~~[(d)]~~ (e) The authorized seller of the vehicle shall be
5 entitled to the proceeds of the sale to the extent that
6 compensation is due the authorized seller for services rendered
7 in respect to the vehicle, including reasonable and customary
8 charges for towing, handling, storage, and the cost of the
9 notices and advertising required by this part. Any remaining
10 balance shall be forwarded to the ~~[legal or registered]~~ vehicle
11 owner ~~[of the vehicle]~~ if the ~~[legal or registered]~~ vehicle
12 owner can be found. If the ~~[legal or registered]~~ vehicle owner
13 cannot be found, the balance shall be deposited with the
14 director of finance of the State and shall be paid out to the
15 ~~[legal or registered]~~ vehicle owner ~~[of the vehicle]~~ if a proper
16 claim is filed therefor within one year from the execution of
17 the sales agreement. If no claim is made within the year
18 allowed, the money shall become a state realization.

19 ~~[(e)]~~ (f) The transfer of title and interest by sale under
20 this part is a transfer by operation of law; provided that if
21 the certificate of ownership or registration is unavailable, a



1 bill of sale executed by an authorized seller is satisfactory
2 evidence authorizing the transfer of the title or interest.

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

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

13 SECTION 3. Section 291C-165.5, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) The towing company shall determine the name of the
16 lien holder and the registered owner of the vehicle from the
17 department of transportation or the county department of
18 finance. The lien holder and the registered owner shall be
19 notified by the towing company in writing at the address on
20 record with the department of transportation or with the county
21 department of finance by registered or certified mail of the



1 location of the vehicle, together with a description of the
2 vehicle, within a reasonable period not to exceed twenty days
3 following the tow. The notice shall state:

- 4 (1) The maximum towing charges and fees allowed by law;
- 5 (2) The telephone number of the county finance department
6 that arranged for or authorized the tow; and
- 7 (3) That if the vehicle is not recovered within thirty
8 days after the mailing of the notice, the vehicle
9 shall be deemed abandoned and will be sold or disposed
10 of as junk.

11 Any towing company engaged in towing pursuant to this section
12 shall comply with the requirements of section 291C-135. When
13 the vehicle is recovered after the tow by the registered owner
14 or lien holder, the party recovering the vehicle shall pay the
15 tow and storage charges which shall not exceed the charges as
16 provided by section [~~290-11(b)~~] 290-11(c) or the rates agreed
17 upon with the respective counties, whichever is lower, except
18 that tow operators may charge additional reasonable amounts for
19 excavating vehicles from off-road locations; provided that if
20 the notice required by this section was not sent within twenty
21 days after the tow, neither the registered owner nor the lien



1 holder shall be required to pay the tow and storage charges. No
2 notice shall be sent to a legal or registered owner or any
3 person with any unrecorded interest in the vehicle whose name or
4 address cannot be determined. A person, including but not
5 limited to the owner's or driver's insurer, who has been charged
6 in excess of the charges permitted under this section may sue
7 for damages sustained, and, if the judgment is for the
8 plaintiff, the court shall award the plaintiff a sum not to
9 exceed the amount of these damages and reasonable attorney's
10 fees together with the cost of the suit."

11 SECTION 4. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect upon its approval.
14



Report Title:

Towing; Vehicle Owner; Hooked Up; Scene

Description:

Establishes definitions of "hooked up", "scene", and "vehicle owner" to clarify when a vehicle must be released by a towing company. Establishes date and time stamped photo as proof of vehicle being hooked up. (SD1)

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

