

S.B. NO. 2857

JAN 27 2016

A BILL FOR AN ACT

RELATING 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) As
5 used in this section:

6 "Hooked up" means completely and securely attached and
7 fastened to the tow truck by means of clamps, couplings, straps,
8 tow bars, and other mechanical devices that are specifically
9 designed to prevent the vehicle from dropping off or detaching
10 from the tow truck in any way or otherwise shifting in any
11 manner.

12 "Scene" means the location of the vehicle while it is in
13 the process of being hooked up, or the location where it was
14 hooked up, and anywhere within a fifty-foot radius of that
15 location.

16 "Vehicle owner" means any person, other than the towing
17 company, who has possession of or any other interest in the
18 vehicle, including but not limited to the legal or registered

1 owner of the vehicle, the person renting the vehicle pursuant to
2 chapter 437D, and any person in possession of the key or remote
3 keyless ignition system to the vehicle.

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

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

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- 1 (1) Charge not more than \$65 for a tow, or \$75 for a tow
2 using a dolly, plus a mileage charge of \$7.50 per mile
3 towed and \$25 per day or fraction thereof for storage
4 for the first seven days and \$20 per day thereafter.
5 In the case of a difficult hookup, meaning an above or
6 below ground hookup in a multilevel facility, a towing
7 surcharge of \$30 shall be applicable. When the tow
8 occurs between the hours of six o'clock p.m. and six
9 o'clock a.m., from Monday through Thursday and from
10 six o'clock p.m. Friday to six o'clock a.m. Monday,
11 the towing company shall be entitled to an overtime
12 charge of \$15. [~~If the vehicle is in the process of~~
13 ~~being hooked up or is hooked up to the tow truck and~~
14 ~~the owner appears on the scene, the towing company~~
15 ~~shall unhook the vehicle and shall not charge any fee~~
16 ~~to the owner of the vehicle. In the case of a~~
17 ~~difficult hookup, meaning an above or below ground~~
18 ~~hookup in a multilevel facility, a towing surcharge of~~
19 ~~\$30 shall be applicable];~~
- 20 (2) If the vehicle is in the process of being hooked up
21 and the vehicle owner appears on the scene, the towing
22 company shall release the vehicle to the vehicle owner

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1 at a location that ensures the safety of all persons
2 and property involved and, regardless of whether the
3 release occurs on the scene or if the vehicle must be
4 removed from the scene to be safely released, no fee
5 will be charged to the vehicle owner;

6 [~~2~~] (3) Determine the name of the legal owner and the
7 registered owner of the vehicle from the department of
8 transportation or the county department of finance.
9 The legal owner and the registered owner shall be
10 notified in writing at the address on record with the
11 department of transportation or with the county
12 department of finance by registered or certified mail
13 of the location of the vehicle, together with a
14 description of the vehicle, within a reasonable period
15 not to exceed fifteen days following the tow. The
16 notice shall state:

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

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

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1 (C) That if the vehicle is not recovered within thirty
2 days after the mailing of the notice, the vehicle
3 shall be deemed abandoned and will be sold or
4 disposed of as junk.

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

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1 ~~[(3)]~~ (4) Provide, when a vehicle is recovered by the
2 vehicle owner before written notice is sent by
3 registered or certified mail, the vehicle owner with a
4 receipt stating:

5 (A) The maximum towing charges and fees allowed by
6 law; and

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

10 ~~[(4)]~~ (5) Accommodate payment by the vehicle owner for
11 charges under paragraph (1) by cash and by either
12 credit card or automated teller machine located on the
13 premises.

14 ~~[(e)]~~ (d) When a vehicle is not recovered within thirty
15 days after the mailing of the notice, it shall be deemed
16 abandoned and the owner of the towing company, or the owner of
17 the towing company's authorized representative, after one public
18 advertisement in a newspaper of general circulation in the
19 State, may negotiate a sale of the vehicle or dispose of it as
20 junk.

21 ~~[(d)]~~ (e) The authorized seller of the vehicle shall be
22 entitled to the proceeds of the sale to the extent that

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1 compensation is due the authorized seller for services rendered
2 in respect to the vehicle, including reasonable and customary
3 charges for towing, handling, storage, and the cost of the
4 notices and advertising required by this part. Any remaining
5 balance shall be forwarded to the legal or registered owner of
6 the vehicle if the legal or registered owner can be found. If
7 the legal or registered owner cannot be found, the balance shall
8 be deposited with the director of finance of the State and shall
9 be paid out to the legal or registered owner of the vehicle if a
10 proper claim is filed therefor within one year from the
11 execution of the sales agreement. If no claim is made within
12 the year allowed, the money shall become a state realization.

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

18 [~~f~~] (g) Notwithstanding any law or ordinance to the
19 contrary, including subsection (g), and section 46-20.5, any
20 towing company engaged in towing in a county with a population
21 greater than five hundred thousand shall offer towing services
22 to consumers twenty-four hours per day every day of the week[~~r~~

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1 ~~which]~~. The towing services shall include the release of
2 vehicles kept in storage to a [registered owner, legal owner,
3 insurer,] vehicle owner, or a designated representative.

4 (h) Any person who violates any provision of this section
5 shall be deemed to have engaged in an unfair or deceptive act or
6 practice in the conduct of any trade or commerce within the
7 meaning of section 480-2.

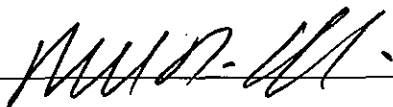
8 ~~[-g-]~~ (i) This section shall not apply to a county that
9 has adopted ordinances regulating towing operations."

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

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

13

14

INTRODUCED BY: 

15

BY REQUEST

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Report Title:

Towing; Vehicle Owner; Hooked Up; Scene; Towing Company; Unfair or Deceptive Act or Practice

Description:

Defines "vehicle owner", "scene", and "hooked up" for the purposes of towing unattended vehicles. Makes clarifying amendments. Specifies that violations of the section shall be per se violations of section 480-2, Hawaii Revised Statutes, and repeals prior fine provisions.

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

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO TOWING.

PURPOSE: Enhance statutory protections to consumers for unattended vehicle tows, reconcile penalty provisions with other consumer protection statutes, and apply technical amendments.

MEANS: Amend section 290-11, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Clarifies the scope and the enforcement mechanism of section 290-11, HRS, by adding definitions, technical amendments, and strengthens statutory penalties for violations of Hawaii's Towing Law.

Impact on the public: This measure will provide better protection to consumers from illegal towing practices.

Impact on the department and other agencies: None.

GENERAL FUNDS: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: CCA-110.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.