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# 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 -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:



- 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, release



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

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

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



1 (B) The telephone number of the consumer information  
2 service of the department of commerce and  
3 consumer affairs; and

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

8 Where the ~~[owners]~~ legal owner and the registered  
9 owner have not been ~~[se]~~ notified~~[, then the owner]~~  
10 pursuant to this paragraph, the vehicle may [recoover  
11 the owner's car] be recovered by the vehicle owner  
12 from the towing company without paying tow or storage  
13 fees ~~[, provided that the]~~. The notice need not be  
14 sent to a legal or registered owner or any person with  
15 an unrecorded interest in the vehicle whose name or  
16 address cannot be determined. Absent evidence to the  
17 contrary, a notice shall be deemed received by the  
18 legal or registered owner five days after the  
19 mailing~~[. A person, including but not limited to the~~  
20 ~~owner's or driver's insurer, who has been charged in~~  
21 ~~excess of the charges permitted under this section may~~



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

6 ~~[(3)]~~ (4) Provide, when a vehicle is recovered by the  
7 vehicle owner before written notice is sent by  
8 registered or certified mail, the vehicle owner with a  
9 receipt 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)]~~ (5) Accommodate payment by the vehicle owner for  
16 charges under paragraph (1) by cash and by either  
17 credit card or automated teller machine located on the  
18 premises.

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



1 the towing company's authorized representative, after one public  
2 advertisement in a newspaper of general circulation in the  
3 State, may negotiate a sale of the vehicle or dispose of it as  
4 junk.

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

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

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

17 SECTION 2. Section 291C-165.5, Hawaii Revised Statutes, is  
18 amended by amending subsection (b) to read as follows:

19 "(b) The towing company shall determine the name of the  
20 lien holder and the registered owner of the vehicle from the  
21 department of transportation or the county department of





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

8 (1) The maximum towing charges and fees allowed by law;

9 (2) The telephone number of the county finance department  
10 that arranged for or authorized the tow; and

11 (3) That if the vehicle is not recovered within thirty  
12 days after the mailing of the notice, the vehicle  
13 shall be deemed abandoned and will be sold or disposed  
14 of as junk.

15 Any towing company engaged in towing pursuant to this section  
16 shall comply with the requirements of section 291C-135. When  
17 the vehicle is recovered after the tow by the registered owner  
18 or lien holder, the party recovering the vehicle shall pay the  
19 tow and storage charges which shall not exceed the charges as  
20 provided by section [~~290-11(b)~~] 290-11(c) or the rates agreed  
21 upon with the respective counties, whichever is lower, except



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

15 SECTION 3. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect on January 7, 2059.

18



**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. Establishes a surcharge fee for a difficult hookup. Clarifies that if a vehicle is in the process of being hooked up and the vehicle owner appears on the scene, the towing company is required to release the vehicle at a location that ensures safety to all persons and property involved without a fee charged to the vehicle owner. Makes clarifying amendments. Establishes that violations of the unattended vehicle towing law are violations of the law relating to unfair methods of competition, deceptive acts, or practices. Takes effect on 1/7/2059. (SD2)

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

