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PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION

TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2015

MARCH 23, 2015
2:45 PM

TESTIMONY IN SUPPORT, WITH REQUESTED AMENDMENTS, OF S.B. 16, S.D. 2,
H.D. 1, RELATING TO TOWING.

TO THE HONORABLE ANGUS L.K. McKELVEY, CHAIR,
AND TO THE HONORABLE JUSTIN H. WOODSON, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs, Office of Consumer Protection (“OCP”), appreciates the opportunity to offer testimony in support, with a requested amendment, of S.B. 16, S.D. 2, H.D. 1, Relating to Towing. My name is Stephen Levins and I am the Executive Director of the OCP.

S.B. 16, S.D. 2, H.D. 1 proposes to add a definition of “vehicle owner” to section 290-11, Haw. Rev. Stat., and makes amendments to address the inconsistent terminology used to refer to vehicle owners throughout the section. The bill also adds definitions for “hooked up” and “scene” to address practices related to the section 290-11(b)(1), Haw. Rev. Stat. requirement that a vehicle be released to a vehicle owner if the vehicle owner

arrives before their car is towed without charging a “drop fee” to do so. The definition of “scene” specifies that the scene is where the vehicle is parked, and stipulates further that the scene includes an area of fifty feet surrounding that location for the purposes of the requirement to drop a tow when a vehicle owner arrives. The bill amends proposed section 290-11(c)(2) such that if a vehicle is hooked up, outside of the scene, and the tow operator is in motion, the tow operator does not have to drop the tow and release it to the vehicle owner (page 5, lines 6-11). It also proposes a means for tow truck drivers to be able to provide proof that the requirements of the statute have been complied with. The House Committee on Transportation (“TRN”) amended the definition of vehicle owner to require that a person in possession of the key or remote keyless ignition system must be in “lawful possession” of the key or remote keyless ignition system.

This bill adds a definition of “vehicle owner” to broaden the types of individuals eligible to instruct a tow operator to release a vehicle. The OCP opposes the TRN amendment to the bill adding the “lawful possession” requirement to the holder of the key. The term is vague and will result in further conflict between tow operators and vehicle owners as the lawful possession requirement will be leveraged to demand proof of lawful possession, thus frustrating the purpose of defining vehicle owners as proposed in the bill. Absent the TRN amendment, these changes will assist tourists who have rented vehicles, as well as permissive users, such as family members who are using a vehicle but who are not owners of the vehicle, and will allow them to act as the vehicle owner to request that the vehicle be released before a vehicle is towed, or retrieve the vehicle from the tow lot, provided the permissive user pays the required fee.

Testimony on S.B. 16, S.D. 2, H.D. 1

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In addition, the bill's definitions of "hooked up" and "scene" will help close a loophole in which a tow operator may partially hook up the vehicle and move it in order to claim that the vehicle is no longer "on the scene."

The OCP requests that the word "lawful" be deleted from page 3, line 9 of the bill, in order to restore the definition of "vehicle owner" to its form in S.D.2.

Thank you for the opportunity to testify in support, with a requested amendment, of S.B. 16, S.D.2, H.D. 1. I am available for any questions you have regarding this legislation.

Ace Towing Service

1040 Makepono Street
Honolulu, HI 96819
Phone: (808) 847-7811
Fax: (808) 842-7605

March 22, 2015

Representative Angus L. K. McKelvey, Chair
Representative Justin H. Woodson, Vice Chair
Committee On Consumer Protection & Commerce
State Capitol, Room 325
Honolulu, HI 96813

RE: SB16 SD2 HD1 Relating To Towing. Clarifies when a towing company must release a vehicle to its owner, if the owner arrives on the scene after the vehicle has been hooked up to the tow truck. Includes renters and authorized borrowers of vehicles in existing consumer protection requirements for vehicle release, notifications, and compensation. (SB16 HD1) Effective 07/01/2050.

Dear Chair McKelvey, Vice Chair Woodson and Members of the Committee:

In regards to SB16 SD2, we oppose this bill regarding the definitions of “scene”, “hooked up” and “vehicle owner”. However, we as a towing company working closely with customers in our industry have a real-world idea as to what the definitions should be.

Scene definition to be anything beyond a 50ft radius of the vehicle is too far of a distance. Why does the 50ft radius rule apply only to vehicles towed on the public street? Is there a specific reason? The DCCA clearly did not think this through when proposing this outrageous distance. For example, what is a tow truck driver to do when towing a vehicle from a private property that fronts a busy street such as King Street, and the vehicle is parked near the exit and the driver gets the vehicle off the property and is now sitting in traffic but not quite 50ft away? Is he expected to stop and unhook the vehicle in the middle of traffic and would the DCCA actually think this is safe? How would anyone even gage a distance that big? This is why we still feel that a 4ft radius or once the vehicle leaves the stall is sufficient. This definition of the scene was agreed upon by the DCCA when we met with the Senate’s Transportation Committee. We have to remember that these people getting their vehicles towed are violators and the purpose of this bill is to clear up definitions by making it less ambiguous, easier for HPD to enforce and easier for the customer to understand.

Hooked up, should read when the tow truck is securely attached to the vehicle and is able to safely move the vehicle without the vehicle falling off the tow truck. This is because there are many models of tow trucks that require different equipment to make the hook up safe. There are some model tow trucks that do not require or come with straps.

Representative Angus L. K. McKelvey, Chair
Representative Justin H. Woodson, Vice Chair
Committee On Consumer Protection & Commerce
March 22, 2015
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The “process of hooking up” should read when the tow truck is attached to the vehicle by either one L bar in the case of a wheel lift, arms deployed in the case of a self loader and J hooks attached in the case of a flat bed or car carrier. Once this takes place work has been done to take possession of the vehicle. Once possession is taken releasing of the vehicle should be to the “vehicle owner” only.

Vehicle owner should be defined as the legal, registered, renter or authorized driver listed on a rental agreement. In the event the above mentioned “vehicle owner” is unable to pick up his/her vehicle from the tow yard a notarized letter, power of attorney or a letter on hospital letter head signed by a doctor authorizing someone other then the legal or registered owner to pick up the vehicle is presented the tow company should release the vehicle to the authorized person listed.

Acceptable forms of identification should be any government issued ID such as drivers license, state ID, passport, military ID, resident alien cards etc.

We believe defining “vehicle owner” as such and indicating in the law what a towing company shall accept as reasonable means of releasing a vehicle to someone other than the “vehicle owner” will prevent towing companies from withholding vehicles from the “vehicle owner” and will facilitate the expediency of the release process to the proper person. The Committee on Consumer Protection & Commerce amended the definition of vehicle owner to say “any person in *lawful* possession of the key or remote keyless ignition system to the vehicle”. However, this makes the law more ambiguous because how is the person with the key going to prove to the tow truck driver that he/she is in *lawful* possession of the vehicle?

We are unsure of the verbiage regarding date and time stamped pictures of the hooked up vehicle on the scene. I think this means that we need a date and time stamped photo of any vehicle we tow in to our yard proving that we did in fact “hook up” the vehicle before we left the scene. Any vehicle we tow needs to be fully hooked up or moving the vehicle would be impossible. Hooking up a vehicle half way would not allow the tow truck driver to move the vehicle without damage or falling off the lift. Because of this fact we believe this step to be unnecessary as there is no purpose. If we brought the vehicle into the yard this means that we were not confronted on the scene and was properly hooked up to the vehicle. Requiring a driver to take this additional photo will only slow his process and when on a public street put him in danger. What most people fail to realize is keeping a tow truck driver on the scene longer than necessary puts the driver in danger. People become enraged when they see their vehicle being hooked up to a tow truck. We have had numerous cases where the driver gets caught on the scene and is trying to give the vehicle back at no charge but the vehicle owner is so angry he becomes aggressive preventing the driver from unhooking the vehicle.

Respectfully Submitted,

Jan Wakayama
President

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 21, 2015 9:57 PM
To: CPCtestimony
Cc: amybrinker@mac.com
Subject: *Submitted testimony for SB16 on Mar 23, 2015 14:45PM*

SB16

Submitted on: 3/21/2015

Testimony for CPC on Mar 23, 2015 14:45PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Amy Brinker	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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LATE

**TESTIMONY ON SENATE BILL NO. SB 16 SD2-
RELATING TO TOWING**

POSITION: OPPOSED TO BILL WITH CURRENT LANGUAGE

**PRESENTATION OF:
BARNABY ROBINSON, OWNER, WAIALAE TOWING**

HOUSE OF REPRESENTATIVES
THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2015

[COMMITTEE ON CONSUMER PROTECTION & COMMERCE](#)

Rep. Angus L.K. McKelvey, Chair
Rep. Justin H. Woodson, Vice Chair

MONDAY 3-23-2015

In 2007 this legislative body chose to eliminate the 'unhooking fees' from illegally parked vehicles while the tow-operator is in the process of hooking up. This 'feel-good' legislation has created confusion, unintended consequences, and actually works against HPD, the general public, illegally parked vehicle owners and the tow-operator.

The verbiage with 2007's law is vague and controversial. The tow industry is pleased the legislature is taking the time to address current language to clarify the rules for parking.

Prior to 2007's changes, the determining factor for an "unhooking fee" was that if the tow truck had connection to the vehicle, and the owner appeared at the vehicle, a \$50 fee was collected and the vehicle was unhooked. This 20+ year resolution provided a reduced cost solution for the illegally parked vehicle owner, reduced continued illegally parking, and remuneration for the tow firm's services up to that point.

However, what historically happens at the legislature is the tow man is portrayed as the bad person, and the illegally parked vehicle owner is portrayed as an "innocent" victim. This is far from the truth as tow companies are providing a necessary and valuable service to both HPD, State and Federal Agencies, and Private Property owners.

It is unfortunate that this legislature essentially ignores the pleas, requests and testimonies of the tow industry that deal with the day to day challenges of enforcing parking rules and regulations. Our employees, equipment, and offices have been targeted by angry illegal parkers causing damage, harm and personal injury. All the changes proposed in SB16SD1HD1 DO NOT ADDRESS THE

NEEDS OF THE TOW INDUSTRY. It further rewards the illegal parker, places additional burden (and costs) to the tow companies, and increases the risk to our tax paying hard working employees.

This committee has the opportunity to clarify existing murky language, yet what is proposed with SB16SD1HD1 further muddies the water and creates additional confusion and danger for customers, government agencies, and private property owners.

The fact is there are almost 1,000,000 people on Oahu, and almost as many vehicles. Parking these vehicles requires rules and regulations in a civilized society, since the reality is that parking rules are basically management of real estate.

Public and private property needs protection from violators. Public roads need to be opened for traffic; driveways, fire hydrants, intersections and bus stops need to be free and clear for intended uses. Illegally parked cars need to be removed, and regulation is needed to protect both the violator, and the tow company providing service.

The three points that SB16 SD2HD1 addresses should be structured as follows:

1) The language needs to be modified to REINSTATE the unhooking fee, as it provides a satisfactory solution for vehicle owners that appear on the scene (by preventing full tow to the impound yard), closes the loophole for continued illegal parking, and partial remuneration for the tow company for services provided up to that point.

2) Release of the vehicle should be to the Legal or Registered owner only. This is for protection to the city, state, private property owners, and tow companies from release to unauthorized people. A notarized form authorizing a person to operate the vehicle should be acceptable proof for release.

In the case of a rental vehicle, a rental contract verifying a person's name on it should be acceptable proof for release.

3) The definition of "on scene" should be "once vehicle is connected to the illegally parked vehicle".

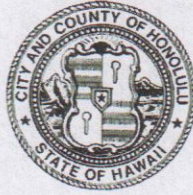
Thank you for your consideration of these recommendations.

Barnaby Robinson
President
Waialae Towing

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

LATE TESTIMONY

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KIRK CALDWELL
MAYOR

LOUIS M. KEALOHA
CHIEF

DAVE M. KAJIHIRO
MARIE A. McCAULEY
DEPUTY CHIEFS

OUR REFERENCE CT-GR

March 23, 2015

The Honorable Angus L. K. McKelvey, Chair
and Members
Committee on Consumer Protection
and Commerce
House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair McKelvey and Members:

SUBJECT: Senate Bill No. 16, S.D. 2, H.D. 1, Relating to Towing

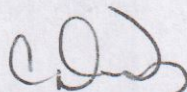
I am Calvin Tong, Major of the Traffic Division of the Honolulu Police Department (HPD), City and County of Honolulu. The HPD supports the passage of Senate Bill No. 16, S.D. 2, H.D. 1, Relating to Towing.

The passage of this bill will help the Honolulu Police Department settle disputes between the towing companies and the motorists. The current statute specifies release to the owner, creating a problem for the operators of rented or borrowed vehicles. We believe that allowing the release to the person who is legally in possession of the vehicle at the time of the tow is in keeping with the true spirit of eliminating "unhooking" fees.

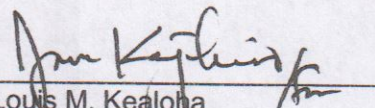
The HPD urges you to support Senate Bill No. 16, S.D. 2, H.D. 1, Relating to Towing.

Thank you for the opportunity to testify.

Sincerely,


Calvin Tong, Major
Traffic Division

APPROVED:


Louis M. Kealoha
Chief of Police