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 Subject: Submitted testimony for SB16 on Feb 26, 2015 09:30AM
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SB16

Submitted on: 2/25/2015

Testimony for CPN on Feb 26, 2015 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Barnaby Robinson	Waialae Towing	Comments Only	No

Comments: TESTIMONY ON HOUSE BILL NO. SB 16 SD1- RELATING TO TOWING POSITON: IN FAVOR OF BILL WITH "MODIFICATIONS" PRESENTATION OF BARNABY ROBINSON, OWNER WAIALAE TOWING THE SENATE THE TWENTY-EIGHTH LEGISLATURE REGULAR SESSION OF 2015 COMMITTEE ON COMMERCE AND CONSUMER PROTECTION Senator Rosalyn H. Baker, Chair Senator Brian T. Taniguchi, Vice Chair Thursday 2-26-15 Executive recap: 1) Tow companies wish to reinstate the "unhooking fee" to be determined as mechanical connection by tow truck to illegally parked vehicle, 2) Description of "on-scene" as once illegally parked vehicle is in motion after connection by tow truck, and 3) "Release of vehicle" be defined as legal or registered owner, renter on rented vehicle contract, power of attorney document on behalf of legal or registered owner, or hospital letterhead with doctor signature of patient. The verbiage under current laws is unclear and a recipe for litigation, conflict, and interpretation. The tow industry agrees with current legislators to clean up the ambiguous language and establish fair, reasonable and clear laws to all parties involved. In 2008 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 legislation has created confusion, unintended consequences, and actually works against HPD, the general public, illegally parked vehicle owners and the tow-operator. The tow industry is pleased to see the clarification of terms is finally on the agenda. The tow industry requests that this "unhooking fee" be reinstated. 1) The "unhooking fee" should be determined as mechanical connection to the illegally parked vehicle by the tow truck. Industry describes this as one "L" bar from wheel lift trucks, automated "arms" deployed on self-loaders, and "J" hooks connected from flatbed trucks. Prior to 2008's changes, the determining factor for an "unhooking fee" was that if the tow truck had mechanical connection to the vehicle and the illegally parked vehicle owner appeared at the "scene", a \$50 service fee was collected and the vehicle was unhooked. This 20+ year resolution provided remuneration for the tow company's services up to that point, and a reduced cost solution for the illegally parked vehicle owner. When tow companies are responding to an HPD request for illegally parked vehicle removal, the tow-company is under contract to provide service, and runs the risk of ZERO REMUMERATION for services rendered under current laws. This unfair practice drives up the cost of tow company operations. Likewise with Private

Property Impounds (PPI). Tow companies respond to a request from property owners to remove an illegally parked vehicle, and if the owner appears “on-scene”, tow companies must unhook the vehicle and are unable collect for services rendered, under current laws. A common loophole occurs when tow companies are requested to provide removal of illegally parked vehicles, the owner appears and forces a “free” unhooking, and illegal parking is continued. An “unhooking fee” would eliminate this problem. 2) The issue of “on-scene” is also ambiguous. Every party involved has different opinions. The previous committee agreed that “on scene” needs clearer definition, which they have provided in the SD1 verbiage. The tow industry requests that “on scene” be defined as “once the illegally parked vehicle is in motion”. 3) Release of vehicle should be defined as legal or registered owner, renter on rented vehicle contract, power of attorney document for legal or registered owner, or hospital letterhead with doctor signature of patient. The tow industry wishes to return the illegally parked vehicle to the rightful person. Releasing the illegally parked vehicle to anyone other than the above described stakeholders is risky. To help you understand our industry, below is a brief description of what it is that we do: To the general public, all towing appears to be the same. This is far from the case; there are two basic types of towing. 1) Consent towing, at the request of the vehicle owner, and 2) Non-Consent towing, at the request of HPD or private property owners. Non-consent towing has some very unique costs associated with it: HPD/non-consent towing must provide immediate response with any and all equipment and manpower required to do the job. There is no advanced notice; we must be available 24 hours a day, 7 days a week, regardless of what we might be doing at the time. This necessary service is for removal of illegally parked vehicles in other people’s stall, emergency and/or fire lanes, driveway blockage, fire hydrant blockage, intersection blockage and/or any infraction necessitating removal. In order to perform a “non-consent” tow, a lot of background work is mandatory prior to the truck even arriving at the scene, such as contract negotiations, understanding and compliance of unique/individual property rules, sign posting, answering phones, HPD authorization (to clear a vehicle in the event of a stolen or crime vehicle), dispatch, and then a truck arriving at the destination. To say that a truck has arrived on the scene and done nothing is far from the truth and understanding of the process. Equipment requirements include but are not limited to, are: booms, winches, wire cable, blocking, recovery straps, chains, dollies, snatch blocks, go jacks, and other specialized equipment for completing the requested vehicle removal. Training is paramount to efficiently and safely remove vehicles from difficult location such as multi-level garages (hazards include height limitation, ramps, pillars and tight maneuvering space), vehicles up against the curb, vehicles positioned between other legally parked vehicles, low profile and/or custom vehicles, and exotic and/or fragile vehicles. Impound towing is dangerous due to the circumstances under which we must perform. Injuries are a common occurrence due to awkward locations, heavy equipment, darkness, extreme heat, extreme cold, rain, traffic, mud, insects, vegetation, hostile and/or aggressive vehicle owners, and other precarious situations. The stress of this danger and the slower pace we must work reduces productivity increasing the time it takes to complete the job. Documentation must be far more comprehensive than routine consent towing, entailing administrative work describing what we did, how we did it, equipment & manpower used, detailed vehicle information, detailed vehicle inspection and documentation of existing damage,

detailed owner/lien-holder information, certified notices to the registered owner/lien-holder, detailed information on who removes the vehicle from our yard, release affidavits and detailed information on disposal of the vehicle if it is unclaimed. Many times we are required to go back in our records researching certain vehicles for the State, County, insurance companies, lawyers and vehicle owners. To do “non-consent” towing, we must have a storage lot with secured fencing, lighting, video surveillance, and adequate staffing to receive and release vehicles. We must escort owners, adjusters, law enforcement, lawyers and others in the yard to do their jobs. We may receive as many as 10 or more phone calls or visits from owners, family, insurance companies, adjusters, law enforcement and others involved in a particular impound. There are times we end up with unclaimed impound vehicles, which the owners no longer want. We will not collect a dime on 10% of the vehicles taken to our storage yard because the owners simply decided to dump the vehicle on us instead of paying the bill, which we have no recourse to make them pay. We will then incur additional expenses in processing and disposing of these vehicles whose charges may reach up to \$1200 each by the time they are disposed of. The processing of these vehicles will take a minimum of 45 days before we can dispose of them, taking up valuable space on our lots, causing us to absorb the cost of the initial tow, storage, manpower to prep the vehicle for the shredder (removal of the freon, antifreeze, tires, batteries, fuel and fuel tanks), the secondary tow to Campbell, and all administrative costs associated with this process. Some of the unclaimed vehicles will bring scrap iron prices (currently about \$40/vehicle) from the shredder.

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LATE

DATE: February 25, 2015

TO: Rosalyn H. Baker, Chair
Brian T. Taniguchi, Vice Chair
Senate Committee on Commerce
and Consumer Protection
Twenty-Eighth State Legislature 2015
State of Hawaii

FROM: Patricia S. Martin
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RE: Senate Bill No. 16
Relating To Towing

I am a citizen and resident of the State of Hawaii. I am a property owner who has for many years a contract with a towing company to lawfully remove any unauthorized vehicles from my private property.

Inspite of providing all required notification to persons who illegally park on my property, there are frustrating circumstances when such persons deliberately and willfully abuse the parking privileges of authorized vehicle owners. These legally parked vehicle owners and I are the victims of an intolerable situation.

By not allowing towing companies to charge and assess "~~hooked up~~" and all other pertinent fees, there is little or no recourse for law abiding property owners to correct this injustice.

If this proposed Senate Bill No. 16, relating to towing, cannot correct and control the definition of "vehicle owner" and allow for proper charges and assessments of towing costs, we (all private property owners, authorized vehicle owners, towing companies, and public enforcement authorities) will be left in an untenable situation.

The proposed Senate Bill No. 16 that amends Section 290-11, Hawaii Revised Statutes, attempts to provide a definition of "vehicle owner". Such definition as stated:

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

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"...Any person in possession of the key or remote keyless ignition system to the vehicle" may include any and all of the following:

- 1) The thief of a stolen vehicle.
- 2) A person who accidentally , or intentionally, acquires "the key or remote keyless ignition system to the vehicle".
- 3) The unauthorized spouse, offspring, or other related person or persons who are "in possession of the key or remote keyless ignition system to the vehicle".
- 4) The unauthorized friend, neighbor, or any person or group of persons, including a thief, who is "in possession of the key or remote keyless ignition system to the vehicle".
- 5) Any and all persons who are "in possession of the key or remote keyless ignition system to the vehicle". This may include multiple persons with multiple sets of keys and multiple remote keyless ignition systems to the vehicle in question.

The proposed amended definition of "vehicle owner" is too broad, too ambiguous, and much too vague. It does not clarify and precisely define "vehicle owner". Disputed claims of "ownership" may occur when there are several sets of keys and remote keyless ignition systems in possession of several persons.

The hypothetical scenario that I described to several committee members of the Senate Committee of Commerce and Consumer Protection, depicting a stranger (or a familiar person) passing their office and simply taking the key or remote keyless ignition system to their personal vehicle, may well become reality. Please note that I was not able to speak directly to committee members, and therefore this hypothetical situation was relayed to staff and assistants. However, I did have the honor and pleasure of speaking to members that took the time from a busy schedule to speak to me. Thank you.

Legal and proper registration of ownership provides the only valid proof of ownership of vehicle by the vehicle owner. Would we define a home owner or home renter as a person who is in possession of the key to the home? Definitely not! Then why do we define "vehicle owner" as a "person in possession of the key or remote keyless ignition system of the vehicle"? The vehicle is often the most valuable possession after a home.

Rather than add clarity and conciseness, the proposed definition of "vehicle owner" allows for confusion and chaos to an already conflicting towing situation. Any law relating to such a definition of "vehicle owner" will be difficult to enforce and jurisdic-t, as well as be subject to various interpretations.

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I would like to thank all committee members, and their staff and assistants, for giving me this opportunity to express my sincere concerns over this Senate Bill No. 16 (Relating To Towing). I would to express my gratitude to all for doing your due diligence to research, review and recognize the many different nuances and interpretations that definitions of legal terminology may have.

Please take all I have stated, both verbally and in writing, under strong consideration and full advisement. The impact of each and every law that passes through the Legislature will have great impact and repercussion for many years to come. Please take your time and think hard and long before casting your vote. Thank you in advance for your thoughtful consideration.

If there are any concerns and/or questions, please feel free to contact me at (808) 836-3331.

Respectfully submitted:



Patricia S. Martin

cc: Gilbert Kahele
Michelle N. Kidani
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