

**"CHAPTER 290  
ABANDONED VEHICLES**

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### "[PART I. VEHICLES ABANDONED ON PUBLIC AND PRIVATE PROPERTY GENERALLY]"

**§290-1 Disposition by counties of certain abandoned vehicles.** (a) The counties may cause vehicles that have been abandoned to be taken into custody and disposed of. For the purposes of this subsection, a vehicle is "abandoned" if it is defined to be abandoned by an ordinance of the county in which the vehicle is located. In the absence of such an ordinance, a vehicle is "abandoned" if it is left unattended for a continuous period of more than twenty-four hours and it is unlawfully parked on any public highway or other public property or private lands defined as a setback, shoulder, easement, or right of way that is adjacent to or part of a public highway. The mayors of the several counties may designate an agency within their counties to carry out the functions and requirements of this section. The term "agency" means any office, department, or other governmental unit of the county.

(b) The Hawaii public housing authority may cause vehicles that have been abandoned on any public housing property owned, managed, or administered by the Hawaii public housing authority to be taken into custody and disposed of. For the purposes of this subsection, a vehicle is "abandoned" if it is left unattended for a continuous period of more than twenty-four hours after a notice is conspicuously posted on the vehicle that the vehicle is subject to disposal pursuant to this subsection.

(c) At the request of the landowner, a county may cause vehicles to be taken into custody and disposed of that have been abandoned on roads for which dedication to the State or county is pending. For purposes of this subsection, a vehicle is deemed abandoned if it is left unattended for a continuous period of more than twenty-four hours after a notice is conspicuously posted on the vehicle stating that the vehicle is subject to disposal pursuant to this subsection. [L 1949, c 194, pt of §1; RL 1955, pt of §138-32; am L 1967, c 267, pt of §1; HRS §290-1; am L 1984, c 261, §1; am L 1992, c 238, §1; am L 1997, c 350, §14; am L 2005, c 162, §1 and c 196, §26; am L 2006, c 180, §16; am L 2009, c 193, §§1, 4]

" **§290-2 Notice to owner.** (a) Upon taking custody of any abandoned vehicle, a written notice shall immediately be sent by registered or certified mail to the legal and registered owner of the vehicle at the address on record at the vehicle licensing division. The notice shall contain a brief description of the vehicle, the location of custody, and intended disposition of the vehicle if not repossessed within ten days after the mailing of the notice, or in the case where the address of the registered owner on record at the vehicle licensing division is an out-of-state address, within twenty business days after the mailing of the notice. A notice need not be sent to a legal or registered owner or any person with an unrecorded interest in the vehicle whose name or address cannot be determined. Absent evidence to the contrary, a notice shall be deemed received by the legal or registered owner five days after the mailing.

(b) For purposes of this section, "business days" shall exclude Saturdays, Sundays, and state holidays. A notice need not be sent to a legal or registered owner or any person with an unrecorded interest in the vehicle whose name or address cannot be determined. Absent evidence to the contrary, a notice shall be deemed received by the legal or registered owner five days after the mailing. [L 1949, c 194, pt of §1; RL 1955, pt of §138-32; am L 1967, c 267, pt of §1; HRS §290-2; am L 1989, c 158, §3; am L 1991, c 65, §2; am L 2011, c 122, §1]

" **§290-3 Public auction.** If the vehicle is not repossessed within the time limits provided in section 290-2, the vehicle shall be disposed of by public auction, through oral tenders, or by sealed bids, after public advertisement has been made once in a newspaper of general circulation; provided that the public auction shall not be held less than five days after the publication has been made. Where no bid is received, the vehicle may be either sold by negotiation, disposed of or sold as junk, or donated to any governmental agency. [L 1949, c 194, pt of §1; RL 1955, pt of §138-32; am L 1967, c 267, pt of §1; HRS §290-3]

" **§290-4 Repossession by person entitled.** Any person entitled to the vehicle may repossess the same prior to the date of public auction upon payment of all towing, handling, storage, appraisal, advertising, and any other expenses incurred in connection with the vehicle. If the person claiming the vehicle is not the legal or registered owner, the person may repossess the vehicle upon paying the foregoing expenses and posting adequate security not to exceed the value of the vehicle. The security, if not forfeited, shall be returned two years from

receipt. [L 1949, c 194, pt of §1; RL 1955, pt of §138-32; am L 1967, c 267, pt of §1; HRS §290-4; gen ch 1985]

" **§290-5 Waiver of public auction requirements.** The requirements of public auction may be waived when the value of any vehicle is less than \$1,000 as determined by the director of finance or authorized representative or the vehicle is:

(1) Missing major components or so materially damaged as to render the vehicle inoperable; and

(2) The registration period has expired for the vehicle. In that event, the vehicle, after public advertisement has been made pursuant to section 1-28.5, may be disposed of in the same manner as when a vehicle is put up for public auction and for which no bid is received. [L 1949, c 194, pt of §1; RL 1955, pt of §138-32; am L 1967, c 267, pt of §1; HRS §290-5; am L 1989, c 158, §4; am L 2006, c 62, §1; am L 2007, c 8, §1]

" **§290-6 Effect of transfer of title.** The transfer of title and interest by sale hereunder shall be considered a transfer by operation of law and shall be governed by provisions applicable thereto; provided that in the event the certificate of ownership or registration is unavailable, the bill of sale executed by the authorized county officer is satisfactory evidence authorizing the transfer of such title or interest. [L 1949, c 194, pt of §1; RL 1955, pt of §138-32; am L 1967, c 267, pt of §1; HRS §290-6]

" **§290-7 Disposition of proceeds.** All proceeds from the sale of vehicles shall be deposited into the general fund of the county. The legal or registered owner is entitled to recover the excess of the proceeds from the sale over expenses, if the claim is filed with the county within one year from the execution of the sales agreement. The registered owner shall receive priority of payment to the extent of the registered owner's lien on the vehicle. The county may file a claim within the same period against the legal or registered owner or person with an unrecorded interest for the deficiencies between the sale proceeds and expenses. [L 1949, c 194, pt of §1; RL 1955, pt of §138-32; am L 1967, c 267, pt of §1; HRS §290-7; gen ch 1985]

#### **Cross References**

Highway beautification and disposal of abandoned or derelict vehicles revolving fund, see §286-51(b).

" **§290-8 Derelict vehicle.** A vehicle shall be deemed a derelict vehicle by the administrative head of the county agency designated to carry out section 290-1, or by the executive director or a representative of the executive director of the Hawaii public housing authority in the case of a vehicle that has been abandoned on property owned, managed, or administered by the authority, if major parts have been removed or material damage to the vehicle has rendered the vehicle inoperable and one of the following conditions exists:

- (1) The vehicle is registered for the current registration period and the registered and legal owners no longer reside at the addresses on record with the county director of finance;
- (2) The vehicle has been registered for the current or previous registration period and the registered and legal owners disclaim ownership;
- (3) The vehicle identification number and license plates have been removed so as to nullify efforts to locate or identify the current registered and legal owners;
- (4) The vehicle has not been registered for the current or previous registration periods; or
- (5) The vehicle registration records of the county director of finance contain no record that the vehicle has ever been registered in the county.

Prior to authorizing the removal of a derelict vehicle, the administrative head of the county agency designated to carry out section 290-1 or the executive director or a representative of the executive director of the Hawaii public housing authority in the case of vehicles that have been abandoned on property owned, managed, or operated by the authority, shall notify the county chief of police only if the vehicle is reported stolen or otherwise needed for police investigation. [L 1971, c 28, pt of §1; am L 1983, c 96, §1; am L 1985, c 21, §1; am L 1987, c 77, §1; am L 1992, c 238, §2; am L 1996, c 58, §1; am L 1997, c 350, §14; am L 2005, c 196, §26(a); am L 2006, c 147, §2 and c 180, §16]

#### **Case Notes**

Plaintiff asserted that this section and §290-9 were unconstitutional and that the municipality was subject to liability under 42 U.S.C. §1983 on the grounds that an ordinance implemented the sections and therefore constituted an official policy statement by the municipality; no basis found for imposing liability on the municipality under 42 U.S.C. §1983. 333 F. Supp. 2d 942.

This section and §290-9 are not facially unconstitutional except for condition (6) set forth in this section, which allows for the immediate disposition, without notice, of derelict cars older than ten years and unconstitutionally violates the requirements of due process. 333 F. Supp. 2d 942.

" **[\$290-9] Disposition of derelict vehicle.** A derelict vehicle may be immediately disposed of or sold as junk without having to comply with the requirements of section 290-2 and 290-5. [L 1971, c 28, pt of §1]

### Case Notes

Plaintiff asserted that §290-8 and this section were unconstitutional and that the municipality was subject to liability under 42 U.S.C. §1983 on the grounds that an ordinance implemented the sections and therefore constituted an official policy statement by the municipality; no basis found for imposing liability on the municipality under 42 U.S.C. §1983. 333 F. Supp. 2d 942.

Section 290-8 and this section are not facially unconstitutional except for condition (6) set forth in §290-8, which allows for the immediate disposition, without notice, of derelict cars older than ten years and unconstitutionally violates the requirements of due process. 333 F. Supp. 2d 942.

" **[\$290-10] Disposition of unclaimed vehicle.** Whenever a county ordinance authorizes the police or other agency designated by the mayor of the county to remove and store vehicles, a vehicle removed and stored under authority of such ordinance may be deemed to have been abandoned for the purposes of this chapter if not claimed within twenty-four hours by a person entitled to possession. Such vehicle may be disposed of in accordance with this chapter for the disposition of abandoned vehicles. [L 1971, c 28, pt of §1]

" **§290-11 Vehicles left unattended on private and public property; sale or disposition of abandoned vehicles.** (a) Notwithstanding any other provision of this chapter, any vehicle left unattended on private or public property without authorization of the owner or occupant of the property, may be towed away at the expense of the owner of the vehicle, by order of the owner, occupant, or person in charge of the property; provided that there is posted a notice prohibiting vehicles to park on the property without authorization. The notice shall state that the vehicle will be towed and held at the expense of the vehicle owner, as well as the name, address, and a telephone

number of the facility where the vehicle will be towed and held. The notice shall be of such size and be placed in a location that is clearly visible to the driver of a vehicle approaching any individual marked or unmarked parking space; provided that where an entire parking lot consists of restricted parking spaces, placement of the notice at each entrance of the parking lot shall suffice.

(b) Towing companies engaged by the owner, occupant, or person in charge of the property shall:

- (1) Charge not more than \$65 for a tow, or \$75 for a tow using a dolly, plus a mileage charge of \$7.50 per mile towed and \$25 per day or fraction thereof for storage for the first seven days and \$20 per day thereafter. When the tow occurs between the hours of six o'clock p.m. and six o'clock a.m., from Monday through Thursday and from six o'clock p.m. Friday to six o'clock a.m. Monday, the towing company shall be entitled to an overtime charge of \$15. If the vehicle is in the process of being hooked up or is hooked up to the tow truck and the owner appears on the scene, the towing company shall unhook the vehicle and shall not charge any fee to the owner of the vehicle. In the case of a difficult hookup, meaning an above or below ground hookup in a multilevel facility, a towing surcharge of \$30 shall be applicable;
- (2) Determine the name of the legal owner and the registered owner of the vehicle from the department of transportation or the county department of finance. The legal owner and the registered owner shall be notified in writing at the address on record with the department of transportation or with the county department of finance by registered or certified mail of the location of the vehicle, together with a description of the vehicle, within a reasonable period not to exceed fifteen days following the tow. The notice shall state:
  - (A) The maximum towing charges and fees allowed by law;
  - (B) The telephone number of the consumer information service of the department of commerce and consumer affairs; and
  - (C) That if the vehicle is not recovered within thirty days after the mailing of the notice, the vehicle shall be deemed abandoned and will be sold or disposed of as junk.

Where the owners have not been so notified, then the owner may recover the owner's car from the towing

company without paying tow or storage fees; provided that the notice need not be sent to a legal or registered owner or any person with an unrecorded interest in the vehicle whose name or address cannot be determined. Absent evidence to the contrary, a notice shall be deemed received by the legal or registered owner five days after the mailing. A person, including but not limited to the owner's or driver's insurer, who has been charged in excess of the charges permitted under this section may sue for damages sustained and, if the judgment is for the plaintiff, the court shall award the plaintiff a sum not to exceed the amount of the damages and reasonable attorney's fees together with the cost of suit;

- (3) Provide, when a vehicle is recovered by the owner before written notice is sent by registered or certified mail, the owner with a receipt stating:
  - (A) The maximum towing charges and fees allowed by law; and
  - (B) The telephone number of the consumer information service of the department of commerce and consumer affairs; and
- (4) Accommodate payment by the owner for charges under paragraph (1) by cash and by either credit card or automated teller machine located on the premises.

(c) When a vehicle is not recovered within thirty days after the mailing of the notice, it shall be deemed abandoned and the owner of the towing company, or the owner of the towing company's authorized representative, after one public advertisement in a newspaper of general circulation in the State, may negotiate a sale of the vehicle or dispose of it as junk.

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



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

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

(g) This section shall not apply to a county that has adopted ordinances regulating towing operations. [L 1973, c 148, pt of §1; am L 1976, c 91, §1; am L 1977, c 122, §1; am L 1980, c 172, §1 and c 232, §14; am L 1981, c 82, §20 and c 96, §1; am L 1985, c 180, §1; gen ch 1985; am L 1990, c 165, §2; am L 1991, c 65, §3 and c 144, §1; am L 1992, c 224, §1; am L 1998, c 138, §§1, 3; am L 1999, c 259, §§1, 3; am L 2000, c 260, §2; am L 2001, c 7, §2; am L 2002, c 59, §1; am L 2003, c 84, §3; am L 2007, c 269, §3; am L 2008, c 135, §1; am L 2010, c 122, §2]

#### **Cross References**

Driver education assessments, see §286G-3.

" **§290-12 Leaving abandoned or derelict vehicles.** The registered owner of an abandoned vehicle, as defined in section 290-1, or a derelict vehicle, as defined in section 290-8, found on any roadway, alley, street, way, lane, trail, bridge, or highway or other public property or on private property without authorization of the owner or occupant shall be fined not more than \$1,000; provided that the registered owner shall not be fined if the abandoned or derelict vehicle has been stolen or taken from the registered owner without permission or authorization. [L 1973, c 148, pt of §1; am L 1984, c 175, §1; am L 1985, c 52, §1; am L 1986, c 31, §1; am L 1993, c 214, §11]

#### **"PART II. VEHICLES ABANDONED ON BUSINESS PREMISES OF PERSONS ENGAGED IN MOTOR VEHICLE REPAIR BUSINESS**

**[§290-21] Disposition of vehicles by persons in motor [vehicle] repair business.** When any person abandons a motor vehicle upon the premises of a motor vehicle repair business, the owner of the business or the owner's authorized

representative may sell or dispose of the vehicle in accord with this part. [L 1969, c 178, pt of §1; gen ch 1985]

" **[\$290-22] When vehicle deemed abandoned.** A motor vehicle shall be deemed to be abandoned upon satisfaction of the following conditions:

- (1) The service requested or required by a person whose vehicle is towed or brought to a motor vehicle repair business, such as towing and rendering estimates of the cost of repairs has been performed; and
- (2) No authorization is given to perform any further service respecting the vehicle but the vehicle is left on the repair business premises; and
- (3) The owner of the repair business or the owner's authorized representative has given notice by registered or certified mail to the legal and registered owner of the motor vehicle at the addresses on record in the vehicle licensing division stating that, if the vehicle is not repossessed within thirty days after the mailing of the notice, it will be sold or disposed of as junk. The notice also shall contain a description of the vehicle and its location. The notice need not be sent to a legal or registered owner or any person with an unrecorded interest in the vehicle whose name or address cannot be determined; and
- (4) The vehicle is not repossessed within the above mentioned thirty-day period. [L 1969, c 178, pt of §1; gen ch 1985]

" **[\$290-23] Sale or disposition of vehicle.** When a vehicle is abandoned, the owner of the vehicle repair business, or the owner's authorized representative, after one public advertisement in a newspaper of general circulation in the State, may negotiate a sale of the vehicle or dispose of it as junk. [L 1969, c 178, pt of §1; gen ch 1985]

" **[\$290-24] Disposition of proceeds.** The authorized seller of the vehicle shall be entitled to the proceeds of the sale to the extent that compensation is due the authorized seller for services rendered in respect of the vehicle, including reasonable and customary charges for towing, handling, storage, and the cost of the notices and advertising required by this part. Any remaining balance shall be forwarded to the legal or registered owner of the vehicle if the legal or registered owner can be found. If the legal or registered owner cannot be found, the balance shall be deposited with the director of finance of

the State and shall be paid out to the legal or registered owner of the vehicle if a proper claim is filed therefor within one year from the execution of the sales agreement. If no claim is made within the year allowed, the money shall become a state realization. [L 1969, c 178, pt of §1; gen ch 1985]

" **[\$290-25] Effect of transfer of title.** The transfer of title and interest by sale under this part is a transfer by operation of law; provided that if the certificate of ownership or registration is unavailable, a bill of sale executed by an authorized seller is satisfactory evidence authorizing the transfer of the title or interest. [L 1969, c 178, pt of §1]

"[PART III. GENERAL PROVISIONS]

**§290-41 Notice to police department.** Before a vehicle is towed by any business engaged in towing vehicles, the owner of the towing business or the owner's designated representative shall notify the police department of the county by telephone to determine if the police department of the county has any investigative interest in that vehicle, describing the vehicle, the place from which it is to be towed, and such other information as the police department requires to be furnished. If the vehicle is towed and not claimed within forty-eight hours from the time the vehicle is towed, a written notification, containing the same information, shall immediately be sent to the police department by the owner of the business or the owner's designated representative. [L 1971, c 119, §2; am L 1982, c 36, §1; gen ch 1985]

" **[\$290-42] Disposition of license plates.** Whoever shall abandon a vehicle, or having attained custody of an abandoned vehicle, disposes of, or conveys it as junk shall remove and transmit any license plates on such vehicle to the county agency charged with carrying out the functions and requirements of this chapter. The county agency receiving the license plates shall provide for the destruction of the plates. Violation of this section shall be a misdemeanor. [L 1973, c 147, §2]

" **§290-45 Penalties.** Whoever violates any of the provisions of this chapter or any lawful rule adopted by the director of finance under authority of this chapter, for the violation of which no penalty is provided by law, shall be fined not less than \$150 nor more than \$500. [L 1982, c 91, §1; am L 1985, c 52, §2]