



DAVID Y. IGE
GOVERNOR

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LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Intrastate Commerce
and
House Committee on Transportation
Thursday, February 7, 2019
11:30 a.m.
State Capitol, Conference Room 430**

**On the following measure:
H.B. 405, RELATING TO MOTOR VEHICLE TOWING**

Chairs Ohno and Aquino and Members of the Committee:

My name is Stephen Levins, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection. The Department supports this bill.

The purposes of this bill are to: (1) require a tow truck company not operating under a police department contract to provide a written estimate for services prior to the attachment of a motor vehicle to the tow truck when towing a motor vehicle from an accident; and (2) specify the fees that may be charged.

Many drivers become distressed when they are involved in a car accident, especially when their vehicle is damaged to the point it cannot be driven and must be towed. Most of them are unaware how costly towing fees can be and are surprised when they receive the bill after their car is taken away by the tow company. The Department supports this bill's solution for improving transparency in these instances by

Testimony of DCCA

H.B. 405

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requiring tow companies to provide written estimates of all towing costs and the driver's signed acknowledgement of the estimate before the vehicle is hitched to the tow truck.

Thank you for the opportunity to testify on this bill.

TESTIMONY OF MICHAEL TANOUE

COMMITTEE ON INTRASTATE COMMERCE
Representative Takashi Ohno, Chair
Representative Dale T. Kobayashi, Vice Chair

COMMITTEE ON TRANSPORTATION
Representative Henry J. C. Aquino, Chair
Representative Troy N. Hashimoto, Vice Chair

Thursday, February 7, 2019
11:30 a.m.

HB 405

Chair Ohno, Vice Chair Kobayashi, and members of the Committee on Intrastate Commerce, and Chair Aquino, Vice Chair Hashimoto, and members of the Committee on Transportation, my name is Michael Tanoue, counsel for Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council submits comments on this bill. While we support the intent of the bill which is to protect motor vehicle operators from unscrupulous tow operators, this bill may put the motor vehicle operator in physical harm's way and place them in a position to sign an estimate by the tow operator under duress.

Unfortunately, many persons have been injured or killed as they stand outside their vehicles on the side of the road or on a shoulder. If a tow operator is presenting an estimate to a motor vehicle operator to sign after a motor vehicle crash, it compounds an already stressful situation. There is no way a motor vehicle operator would know if the information contained in the estimate is correct with regard to the price of a police-dispatched tow. If the motor

vehicle operator does not sign the estimate, the tow operator would need to depart without towing the vehicle, leaving the motor vehicle operator no choice but to sign the estimate.

The location of the vehicle and its operator may be dangerous, it may be in darkness and in the rain. These are all conditions that would make it extremely difficult for a motor vehicle operator to refuse to sign or ask questions of the tow operator.

We ask that this bill be amended so as not to place the motor vehicle operator in harm's way or in a situation to sign a document under duress.

Thank you for the opportunity to testify.

February 5, 2019

Representative Takashi Ohno, Chair
Representative Dale T. Kobayashi, Vice Chair
Committee on Intrastate Commerce

Representative Henry T.C. Aquino, Chair
Representative Troy N. Hashimoto, Vice Chair
Committee on Transportation

Hawaii State Capitol, Room 435
Honolulu, HI 96813

RE: HB 405 – MOTOR VEHICLE TOWING – AMENDMENT PROPOSED

Dear Chairs Ohno and Aquino, Vice Chairs Kobayashi and Hashimoto, and Members of the Committees:

AAA Hawaii was founded in 1915 in Honolulu and is a leader in motorist services and roadside assistance and a strong advocate for motorists and traffic safety. With 165,000 members, service to and the safety of our members and all road users is our founding and continuing purpose.

We appreciate that you are considering a proposal to ensure motorists are informed and better protected regarding the costs for towing and related services. Unfortunately, situations do arise when motorists are not adequately informed about these issues. This can be especially acute after a traffic crash has occurred when “rogue” or “bandit” towers arrive on the scene ahead of requested towers. AAA has engaged in similar legislation in California and other states over the past few years.

However, as written now, the proposed legislation would include AAA Hawaii tow trucks and AAA Hawaii contract towers when providing services to our members. We do not believe this is needed or appropriate since we have an established relationship with our members, we

1130 N. Nimitz Highway, Suite A170, Honolulu, HI 96817

Auto Club Enterprises provides service to more than 14 million members



regularly inform our members about dues and other service charges, and most tows provided to AAA Hawaii members are part of their membership and do not incur any additional expense.

Therefore, we respectfully request that the following amendment, in red underline, be included in HB 405:

- (d) This section shall not apply to towing companies operating under a contract with a police department or an automobile club. "Automobile club" means a legal entity that, in consideration of dues, assessments, or periodic payments of money, promises its members or subscribers to assist them in matters relating to [motor travel or] the operation, use, or maintenance of a motor vehicle by supplying services that may include, but are not limited to, towing service and emergency road service.

We believe this amendment stays true to the intent and the purpose of the bill, in regard to towers who may not adequately inform their clients of service charges, without adding unnecessary complications for AAA Hawaii members when seeking roadside assistance from their automobile club.

Thank you very much for your consideration.

Sincerely,

Liane Sumida

Liane Sumida
General Manager





- Government Employees Insurance Company
- GEICO General Insurance Company
- GEICO Indemnity Company
- GEICO Casualty Company

TIMOTHY M. DAYTON, CPCU, GENERAL MANAGER ALASKA & HAWAII
711 Kapiolani Blvd., Suite 300 ■ Honolulu, HI 96813-5238 ■ Email: tdayton@geico.com
Direct: (808) 593-1875 ■ FAX (808) 593-1876 ■ Cell: (808) 341-9252

LATE

COMMITTEE ON INTRASTATE COMMERCE

Rep. Takashi Ohno, Chair
Rep. Dale T. Kobayashi, Vice Chair

COMMITTEE ON TRANSPORTATION

Rep. Henry J.C. Aquino, Chair
Rep. Troy N. Hashimoto, Vice Chair

Rep. Tom Brower Rep. Scot Z. Matayoshi
Rep. Ty J.K. Cullen Rep. Justin H. Woodson
Rep. Mark J. Hashem Rep. Bob McDermott

HB405 - RELATING TO Motor Vehicle Towing

Chair Ohno, Chair Aquino and Members of the Intrastate Commerce Committee and the Transportation Committee:

My name is Timothy M. Dayton, General Manager of GEICO, Hawaii's largest auto insurer. **GEICO supports House Bill 405.** GEICO insures well over 200,000 vehicles in Hawaii and pays for thousands of tows from accident scenes every year. Our experience is that the vast majority of Hawaii towers are honest, hard-working, service oriented and fairly price the services they offer to our mutual customers. On Oahu, many accident scene tows are police dispatched and work under a contract agreed rating structure. However there are a small number of tow companies that prey upon consumers at an accident scene, a time when most are quite vulnerable. Such towers commonly give the impression that they have been police dispatched and assure the consumer that they will bill the insurer directly. There is no disclosure of charges prior to the tow truck hooking up the vehicle and transporting it to their tow yard. When the customer or the insurer attempts to retrieve the vehicle, the vehicle is held hostage for an

unreasonable amount often thousands of dollars. Since the bill includes daily storage charges, failure to pay the bill will result in the charges rapidly rising. The insurer is not contractually obligated to pay an outrageous charge but the alternative is to leave our insured (or a third party claimant) with an unaffordable charge to retrieve their vehicle. GEICO has been paying whatever the charge on behalf of the customer and I suspect pretty much all of our competitors handle this in a similar fashion.

GEICO has numerous examples of exorbitant charges; I have attached documents from one claim file that clearly illustrates the potential for abuse. GEICO's policyholder hit a concrete median on H1 in December, 2017. See photo damaged vehicle labeled Exhibit 3. The insured later told GEICO that he believed that the police had called the company that towed his vehicle. However, the company is not an authorized police dispatched tower. Exhibit 1 shows the invoice for \$3,403.14 which GEICO paid. Exhibit 2 shows the fee schedule posted at the storage lot for the same tow company; had the company charged the rates displayed it would seem that the correct charge would have been approximately \$250. Quite a difference!

HB405 is similar to legislation enacted last year in California, especially the requirement for a written estimate to be provided to the consumer prior to hook up. Given that the majority of tow companies in Hawaii bill only for reasonable charges, the proposal exempts companies that are police dispatched or even those that charges rates consistent with the county contract. For counties that do not have rates for a police dispatch tow contract charges should not exceed rates as specified in **§290-11 Vehicles left unattended on private and public property**. The rates allowed by that section happen to be consistent with the rates shown in the schedule posted at the tow yard shown in Exhibit 2.

GEICO very much appreciates the opportunity to present our testimony. **We support
HB405 and urge the Committees to pass the proposal.**

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy M. Dayton", with a long horizontal flourish extending to the right.

Timothy M. Dayton, CPCU

INVOICE
NO A-1687

Quick and Reliable Towing Service

Phone: 808- [redacted] yahoo.com

CHARGES FOR THE TOWING AND STORAGE OF VEHICLES

24-HOUR TOWING

Date 12/8/17 Time 10:23 AM

Charged To FAA AUCTION

Address _____

PURCHASE ORDER NO. _____

WORK ORDER NO. _____

LICENSE	YEAR	MAKE	MODEL	COLOR
[redacted]	<u>09</u>	<u>BMW</u>	<u>---</u>	<u>BLACK</u>

V.I.N. [redacted]

TOWED FROM H7 East TOWED TO [redacted] ST

MILEAGE _____ DRIVER Avery

Remarks _____

TRUCK # 106

TOW STORAGE CHARGE

STORAGE CHARGE	\$100	10 DAYS	500
GAL-FUEL			
EXTRA MAN			
LOCK OUT			
30 FT. CABLE	\$75		2250
JUMPSTART			
TIRE CHANGE			
EN ROUTE MILES x \$			
TOWED MILES x \$			
TOW TRUCK CHARGE			500
GAR-CARRIER CHARGE			
HEAVY DUTY TRUCK			
LABOR CHARGE			
AFTER HRS. CALL OUT			
2ND TOW			
SUB TOTAL			3250
4.167% STATE TAX			153.14
TOTAL			3403.14

WAIVER

I hereby release from liability and responsibility said company and/or employees for any loss or damage to vehicles or articles incurred during tow or while in storage.

Authorized Signature _____

EXHIBIT

2

[REDACTED]

INFORMATION NOTICE

Hawaii Revised Statutes #290-11, authorize the following rates:

Tow \$65.00 with Dolly \$75.00

Mileage Charge \$7.50 per mile

Overtime Charge \$15.00

*(Tow occurs between the hours of 6:00pm - 8:00am Monday - Thursday
and from 6:00pm Friday - 8:00am Monday)*

Difficult Hookup Surcharge \$30.00

(Hookup above or below ground, in multi-level facility)

Storage Charge \$25.00

per day or a fraction thereof, for the first seven days

\$20.00

per day thereafter

*Department of Commerce & Consumer Affairs
(808) 587-1234*

EXHIBIT 2



3

Claim Number :0571653340101034-01	Year :2009
Category :Estimate	Make :BMW
Sub Category :Estimate	Model :135i
Image FileName :cc78475029-2017120815492513.jpg	VIN :WBAUC73509VK79942
Image Label :cc78475029-2017120815492513.jpg	Loss Date :12/03/2017
Insured :Miguel [REDACTED]	Adjuster :Johnny Ha
Policy Number :4452388095	Photo Taken Date :2017-12-08T14:10:00
Vehicle Owner :Miguel [REDACTED]	Supplement Number :00

American Property Casualty Insurance Association

To: The Honorable Takashi Ohno, Chair
The Honorable Dale T. Kobayashi, Vice Chair
House Committee on Intrastate Commerce

The Honorable Henry J.C. Aquino, Chair
The Honorable Troy N. Hashimoto, Vice Chair
House Committee on Transportation

LATE

From: Mark Sektnan, Vice President

Re: **HB 405 – Relating to Motor Vehicle Towing**
APCIA Position: SUPPORT

Date: Thursday, February 7, 2019
11:30 a.m., Conference Room 430

Aloha Chairs Ohno and Aquino, Vice Chairs Kobayashi and Hashimoto and members of the Committees:

The American Property Casualty Insurance Association (APCIA) is pleased to support HB 405 which requires a tow truck company, not operating under a police department contract, to provide a written estimate for services prior to the attachment of a motor vehicle to the tow truck when towing a motor vehicle from an accident. The bill also specifies the fees that may be charged for services. Representing nearly 60 percent of the U.S. property casualty insurance market, the American Property Casualty Insurance Association (APCIA) promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members represent all sizes, structures, and regions, which protect families, communities, and businesses in the U.S. and across the globe.

The vast majority of tow companies in Hawaii are honest, hard-working businesses that deliver a needed service for a fair price. The majority of accident tows on Oahu are police dispatched and the rates they charge are set by contract with the City and County. Unfortunately, there are a small number of towers that do not operate within the best practices of the industry and prey on people involved in an accident by showing up and often giving the impression that they were called by police dispatch. These tow truck operators then charge exorbitant fees to release the vehicle from storage. In some cases, these charges can be as high as \$100/day storage. These bills, which can run into the thousands of dollars are bad for both the consumer, who was not aware of the potential changes and the legitimate tow truck industry that is playing by the rules of fair business.

A Special Report titled “*The Cost of Abusive Vehicle Towing & Storage Practices is Growing,*” conducted last year by the Property Casualty Insurers Association (PCI) found that “the total nationwide cost of towing and storing damaged or disabled vehicles is \$4.7 billion a year. However, \$616 million, approximately 13 percent, of the total annual towing and storage costs result from predatory towing and storage tactics. More than 2/3 of those responding say that unreasonable fees are the biggest problem they face with towing and storage. Meanwhile over half of respondents ranked inconsistent and difficult release practices as the biggest problem they face during the claims process. These rankings are consistent with the 2011 PCI study which also identified these problems.

HB 405 would require customers be given a written estimate of charges to include notification that the tow truck company was not dispatched by the police which the customer will sign to acknowledge. Failure to provide the notice will require the tow truck companies to adhere to police dispatch rates. The insurance industry has been working on legislation, often times with the various tow truck associations, to put a stop to these types of practices to better protect consumers.

For these reasons, APCIA asks the committee to *pass* this bill.