
A BILL FOR AN ACT

RELATING TO TOWING COMPANIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that current law requires
2 tow truck operators to unhook a vehicle if the owner of the
3 vehicle appears on the scene while the car is being towed.

4 The legislature also finds that according to the Hawaii
5 Census Bureau, Hawai'i residents own an average of two vehicles
6 per household. The number of people per household in Hawaii
7 exceeds three people per household. It is common for vehicles to
8 be shared between multiple drivers who may not necessarily be
9 legal owners of the vehicle.

10 The legislature further finds that due to the high cost of
11 living in Hawaii many residents do not have savings available to
12 cover unexpected costs such as having a vehicle towed. Pursuant
13 to state law the tow itself is \$65. There is an additional
14 charge of \$7.50 per mile and a storage charge of \$20-\$25 per
15 day. A twenty-eight-mile tow would cost a minimum of \$295
16 dollars. Many Hawaii residents do not have the savings to cover



1 a towing cost and would experience financial hardship as a
2 result.

3 The legislature further finds that under current law if a
4 vehicle is being towed and an authorized driver, who is not the
5 owner, appears on the scene, the tow company is not required to
6 unhook the car. An authorized driver who appears on the scene
7 when a vehicle is being towed should also be allowed to avoid
8 the expense of a tow.

9 The legislature further finds a recent study ranked Hawaii
10 second in the nation for its homeless population. An unexpected
11 emergency like paying for a tow could be a detrimental setback
12 to a resident with no savings and could even contribute to lack
13 of ability to pay rent or a mortgage. To avoid creating
14 unnecessary misfortune, the purpose of this bill is to require
15 tow trucks to release a vehicle to an authorized driver who
16 appears on the scene.

17 SECTION 2. Section 286-2, Hawaii Revised Statutes, is
18 amended to by adding a new definition to be appropriately
19 inserted and to read as follows:

20 "Authorized drivers" are defined as drivers with a valid
21 license to drive, who receive verbal or written consent from the



1 owner of the vehicle to operate the vehicle without the owner
2 present."

3 SECTION 3. Chapter 290-11, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§290-11 Vehicles left unattended on private and public
6 property; sale or disposition of abandoned vehicles. (a)

7 Notwithstanding any other provision of this chapter, any vehicle
8 left unattended on private or public property without
9 authorization of the owner or occupant of the property, may be
10 towed away at the expense of the owner of the vehicle, by order
11 of the owner, occupant, or person in charge of the property;
12 provided that there is posted a notice prohibiting vehicles to
13 park on the property without authorization. The notice shall
14 state that the vehicle will be towed and held at the expense of
15 the vehicle owner, as well as the name, address, and a telephone
16 number of the facility where the vehicle will be towed and held.
17 The notice shall be of such size and be placed in a location
18 that is clearly visible to the driver of a vehicle approaching
19 any individual marked or unmarked parking space; provided that
20 where an entire parking lot consists of restricted parking



1 spaces, placement of the notice at each entrance of the parking
2 lot shall suffice.

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

5 (1) Charge not more than \$65 for a tow, or \$75 for a tow
6 using a dolly, plus a mileage charge of \$7.50 per mile
7 towed and \$25 per day or fraction thereof for storage
8 for the first seven days and \$20 per day thereafter.

9 When the tow occurs between the hours of six o'clock
10 p.m. and six o'clock a.m., from Monday through
11 Thursday and from six o'clock p.m. Friday to six
12 o'clock a.m. Monday, the towing company shall be
13 entitled to an overtime charge of \$15. If the vehicle
14 is in the process of being hooked up or is hooked up
15 to the tow truck and the owner or an authorized driver
16 of the vehicle appears on the scene, the towing
17 company shall unhook the vehicle and shall not charge
18 any fee to the owner or authorized driver of the
19 vehicle. In the case of a difficult hookup, meaning
20 an above or below ground hookup in a multilevel



1 facility, a towing surcharge of \$30 shall be
2 applicable;

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

15 (A) The maximum towing charges and fees allowed by
16 law;

17 (B) The telephone number of the consumer information
18 service of the department of commerce and
19 consumer affairs; and

20 (C) That if the vehicle is not recovered within
21 thirty days after the mailing of the notice, the



1 vehicle shall be deemed abandoned and will be
2 sold or disposed of as junk.

3 Where the owners have not been so notified, then the
4 owner may recover the owner's car from the towing
5 company without paying tow or storage fees; provided
6 that the notice need not be sent to a legal or
7 registered owner or any person with an unrecorded
8 interest in the vehicle whose name or address cannot
9 be determined. Absent evidence to the contrary, a
10 notice shall be deemed received by the legal or
11 registered owner five days after the mailing. A
12 person, including but not limited to the owner's or
13 driver's insurer, who has been charged in excess of
14 the charges permitted under this section may sue for
15 damages sustained and, if the judgment is for the
16 plaintiff, the court shall award the plaintiff a sum
17 not to exceed the amount of the damages and reasonable
18 attorney's fees together with the cost of suit;

19 (3) Provide, when a vehicle is recovered by the owner
20 before written notice is sent by registered or
21 certified mail, the owner with a receipt stating:



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

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

6 (4) Accommodate payment by the owner for charges under
7 paragraph (1) by cash and by either credit card or
8 automated teller machine located on the premises.

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

16 (d) The authorized seller of the vehicle shall be entitled
17 to the proceeds of the sale to the extent that compensation is
18 due the authorized seller for services rendered in respect to
19 the vehicle, including reasonable and customary charges for
20 towing, handling, storage, and the cost of the notices and
21 advertising required by this part. Any remaining balance shall



1 be forwarded to the legal or registered owner of the vehicle if
2 the legal or registered owner can be found. If the legal or
3 registered owner cannot be found, the balance shall be deposited
4 with the director of finance of the State and shall be paid out
5 to the legal or registered owner of the vehicle if a proper
6 claim is filed therefor within one year from the execution of
7 the sales agreement. If no claim is made within the year
8 allowed, the money shall become a state realization.

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

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



1 (g) This section shall not apply to a county that has
2 adopted ordinances regulating towing operations.

3 SECTION 4. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY: *Bob McSwain*

JAN 17 2020



H.B. NO. 1965

Report Title:

Towing; Authorized Driver; Definitions

Description:

Requires tow companies to unhook a vehicle if an authorized driver appears on scene. Defines authorized driver.

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

