
A BILL FOR AN ACT

RELATING TO TOWING.

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

1 SECTION 1. The legislature finds that predatory towing is
2 a combination of generally unethical practices used by some
3 towing companies to maximize their income. These practices
4 include using spotters to get cars towed almost as soon as they
5 are parked; charging excessive fees for towing or storage; or
6 making private side deals with owners of stores or parking lots
7 to maximize towing income. The legislature further finds that
8 any of these practices can result in unfair and excessive
9 charges for the vehicle owner. The legislature thus finds that
10 it needs to protect consumers from predatory towing practices by
11 augmenting statutes to include:

- 12 (1) Adding definitions to provide clarification of
13 existing statutes governing towing;
- 14 (2) Requiring tow and storage companies to accept credit
15 cards; and
- 16 (3) Adopting penalties consistent with unfair practices
17 per section 480-13, Hawaii Revised Statutes.



1 SECTION 2. Section 290-11, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§290-11 Vehicles left unattended on private and public
4 property; sale or disposition of abandoned vehicles. (a) As
5 used in this section:

6 "Hooked up" means completely and securely attached and
7 fastened to the tow truck by means of clamps, couplings, straps,
8 tow bars, and other mechanical devices that are specifically
9 designed to prevent the vehicle from dropping off or detaching
10 from the tow truck in any way or otherwise shifting in any
11 manner.

12 "Scene" means the location of the vehicle while it is in
13 the process of being hooked up, or the location where it was
14 hooked up, and anywhere within a fifty-foot radius of that
15 location.

16 "Vehicle owner" means any person, other than the towing
17 company, who has possession of or any other interest in the
18 vehicle, including but not limited to the legal or last
19 registered owner of the vehicle, the person renting the vehicle
20 pursuant to chapter 437D, and any person in possession of the
21 key or remote keyless ignition system device to the vehicle.



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1 "Vehicle parked without authorization" means any vehicle
2 left unattended on private or public property that is not parked
3 in compliance with the notice required by section 290-11(b); a
4 vehicle otherwise parked in compliance with the notice required
5 by section 290-11(b) where the vehicle owner has prepaid for
6 parking and placed a payment receipt, placard, or permit
7 anywhere on or in the vehicle and the payment receipt, placard,
8 or permit is visible from outside the vehicle is not a vehicle
9 parked without authorization; or, a vehicle otherwise parked in
10 compliance with the notice required by section 290-11(b) where
11 the vehicle owner has received authorization from an owner,
12 occupant, or person in charge of the property and placed the
13 placard, permit, or written authorization anywhere or in the
14 vehicle and the placard, permit, or written authorization is
15 visible from the outside of the vehicle is not a vehicle parked
16 without authorization.

17 ~~[(a)]~~ (b) Notwithstanding any other provision of this
18 chapter, any vehicle left unattended on private or public
19 property without authorization of the owner or occupant of the
20 property, may be towed away at the expense of the vehicle owner
21 ~~[of the vehicle]~~, by order of the owner, occupant, or person in



1 charge of the property; provided that there is posted a notice
2 prohibiting vehicles to park on the property without
3 authorization. The notice shall clearly state, in not less than
4 two-inch high, light reflective letters on a contrasting
5 background, [state] that the vehicle parked without
6 authorization will be towed and held at the expense of the
7 vehicle owner, as well as the name, address, and a telephone
8 number of the facility where the vehicle will be towed and held.
9 The notice shall be of such size and be placed in a location
10 that is clearly visible to the driver of a vehicle approaching
11 any individual marked or unmarked parking space; provided that
12 where an entire parking lot consists of restricted parking
13 spaces, placement of the notice at each entrance of the parking
14 lot shall suffice.

15 ~~[(b)]~~ (c) Towing companies engaged by the owner, occupant,
16 or person in charge of the property shall:

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

21 In the case of a difficult hookup, a towing surcharge



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1 of \$30 shall be applicable. When the tow occurs
2 between the hours of six o'clock p.m. and six o'clock
3 a.m., from Monday through Thursday and from six
4 o'clock p.m. Friday to six o'clock a.m. Monday, the
5 towing company shall be entitled to an overtime charge
6 of \$15. [~~If the vehicle is in the process of being~~
7 ~~hooked up or is hooked up to the tow truck and the~~
8 ~~owner appears on the scene, the towing company shall~~
9 ~~unhook the vehicle and shall not charge any fee to the~~
10 ~~owner of the vehicle. In the case of a difficult~~
11 ~~hookup, meaning an above or below ground hookup in a~~
12 ~~multilevel facility, a towing surcharge of \$30 shall~~
13 ~~be applicable;] Said charges listed in this paragraph
14 are the only allowable charges tow companies are
15 authorized to charge vehicle owners;~~

- 16 (2) If the vehicle is in the process of being hooked up,
17 meaning up to the point when the tow-truck is driving
18 away, and the vehicle owner appears on the scene,
19 release the vehicle to the vehicle owner at a location
20 that ensures the safety of all persons and property
21 involved, regardless of whether the release occurs on



1 the scene or if the vehicle must be removed from the
2 scene to be safely released; provided that no fee will
3 be charged to the vehicle owner;

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



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

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



1 ~~[(3)]~~ (4) Provide, when a vehicle is recovered by the
2 vehicle owner ~~[before written notice is sent by~~
3 ~~registered or certified mail,]~~ the vehicle owner with
4 a receipt stating:

5 (A) The maximum towing charges and fees allowed by
6 law; and

7 (B) The telephone number of the consumer information
8 service of the department of commerce and
9 consumer affairs; and

10 ~~[(4)]~~ (5) Accommodate payment by the vehicle owner for
11 charges under paragraph (1) by cash and by ~~[either]~~
12 credit card ~~[or automated teller machine located on~~
13 ~~the premises]~~.

14 ~~[(e)]~~ (d) When a vehicle is not recovered within thirty
15 days after the mailing of the notice, it shall be deemed
16 abandoned and the owner of the towing company, or the owner of
17 the towing company's authorized representative, after one public
18 advertisement in a newspaper of general circulation in the
19 State, may negotiate a sale of the vehicle or dispose of it as
20 junk.



1 ~~[(d)]~~ (e) The authorized seller of the vehicle shall be
2 entitled to the proceeds of the sale to the extent that
3 compensation is due the authorized seller for services rendered
4 in respect to the vehicle, including reasonable and customary
5 charges for towing, handling, storage, and the cost of the
6 notices and advertising required by this part. Any remaining
7 balance shall be forwarded to the legal or last registered owner
8 of the vehicle if the legal or last registered owner can be
9 found. If the legal or last registered owner cannot be found at
10 the address on record at the department of transportation or the
11 county department of finance, the balance shall be deposited
12 with the ~~[director of finance of the]~~ State's Unclaimed Property
13 Program administered by the department of budget and finance and
14 shall be paid out to the legal or last registered owner of the
15 vehicle if a proper claim is filed therefor within one year from
16 the execution of the sales agreement. If no claim is made
17 within the year allowed, the money shall become a state
18 realization.

19 ~~[(e)]~~ (f) The transfer of title and interest by sale under
20 this part is a transfer by operation of law; provided that ~~[if~~
21 ~~the certificate of ownership or registration is unavailable, a~~



1 ~~bill of sale executed by an authorized seller is satisfactory~~
2 ~~evidence authorizing the transfer of the title or interest.] the~~
3 ~~provisions of section 286-52(f) are complied with.~~

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

12 (h) Any person who violates any provision of this section
13 shall be deemed to have engaged in an unfair or deceptive act or
14 practice in the conduct of any trade or commerce within the
15 meaning of section 480-2 and subject to penalties under section
16 480.

17 [~~g~~] (i) This section shall not apply to a county that
18 has adopted ordinances regulating towing operations."

19 SECTION 3. Section 291C-165.5, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:



1 "(b) The towing company shall determine the name of the
2 lien holder and the registered owner of the vehicle from the
3 department of transportation or the county department of
4 finance. The lien holder and the registered owner shall be
5 notified by the towing company in writing at the address on
6 record with the department of transportation or with the county
7 department of finance by registered or certified mail of the
8 location of the vehicle, together with a description of the
9 vehicle, within a reasonable period not to exceed twenty days
10 following the tow. The notice shall state:

- 11 (1) The maximum towing charges and fees allowed by law;
12 (2) The telephone number of the county finance department
13 that arranged for or authorized the tow; and
14 (3) That if the vehicle is not recovered within thirty
15 days after the mailing of the notice, the vehicle
16 shall be deemed abandoned and will be sold or disposed
17 of as junk.

18 Any towing company engaged in towing pursuant to this section
19 shall comply with the requirements of section 291C-135. When
20 the vehicle is recovered after the tow by the registered owner
21 or lien holder, the party recovering the vehicle shall pay the



1 tow and storage charges which shall not exceed the charges as
2 provided by section 290-11(b) or the rates agreed upon with the
3 respective counties, whichever is lower, except that tow
4 operators may charge additional reasonable amounts for
5 excavating vehicles from off-road locations; provided that if
6 the notice required by this section was not sent within twenty
7 days after the tow, neither the registered owner nor the lien
8 holder shall be required to pay the tow and storage charges. No
9 notice shall be sent to a legal or registered owner or any
10 person with any unrecorded interest in the vehicle whose name or
11 address cannot be determined. [~~A person, including but not~~
12 ~~limited to the owner's or driver's insurer, who has been charged~~
13 ~~in excess of the charges permitted under this section may sue~~
14 ~~for damages sustained, and, if the judgment is for the~~
15 ~~plaintiff, the court shall award the plaintiff a sum not to~~
16 ~~exceed the amount of these damages and reasonable attorney's~~
17 ~~fees together with the cost of the suit.] Any person who
18 violates any provision of this section shall be deemed to have
19 engaged in an unfair or deceptive act or practice in the conduct
20 of any trade or commerce within the meaning of section 480-2 and
21 subject to the penalties of section 480-13."~~



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

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

4

INTRODUCED BY: Bial

JAN 21 2020



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Report Title:

Predatory Towing; Definitions

Description:

Clarifies meaning of existing statute relating to towing of abandoned vehicles by adding definitions; requires tow and storage companies to accept credit cards; includes penalties consistent with unfair practices per Section , Hawaii Revised Statutes.

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