

JAN 17 2020

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# 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.



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



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



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."~~



# S.B. NO. 2639

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: Kal Raab

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# S.B. NO. 2639

**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.

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

