



DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

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

335 MERCHANT STREET, ROOM 310

P.O. BOX 541

HONOLULU, HAWAII 96809

Phone Number: 586-2850

Fax Number: 586-2856

cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Finance
Wednesday, February 19, 2020
2:00 p.m.
State Capitol, Conference Room 308**

**On the following measure:
H.B. 2162, H.D. 2, RELATING TO TOWING**

Chair Luke 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 (OCP). The Department supports this bill.

The purpose of this bill are to: (1) clarify the fees tow companies may charge; (2) clarify the duties of tow companies when vehicle owners arrive on the scene while their vehicles are in the process of being hooked up; (3) require tow and storage companies to accept credit cards; (4) subject violators of the towing statute to the penalties and remedies under the State's unfair or deceptive acts or practices law; and (5) add definitions for clarity.

H.D. 2 addresses several deficiencies in the current towing law that hinder the OCP's ability to protect consumers. In pertinent part, H.D. 2 will improve the current towing laws by: adding definitions that will address current ambiguities; mandating the acceptance of credit cards; making the penalty provisions consistent with other

consumer protection statutes; and removing logistical barriers emanating from a strict interpretation of the term “vehicle owner.”

Definitions

First, the bill adds definitions to HRS section 290-11 to remove any uncertainty over how vehicles are towed. The definition of a “vehicle parked without authorization” addresses current ambiguities regarding when a vehicle is authorized to park in a prepaid stall. Consumers have reported to the OCP that their vehicles were towed merely because they placed their proof of payment in a different location on the windshield than the one required by the parking location, such as placing the receipt on the passenger’s side dashboard instead of on the driver’s side. This bill removes this unreasonable restriction by allowing the receipt, placard, or permit to be placed in any visible location.

Second, the bill removes ambiguities from what constitutes the “scene.” Defining “scene,” or the location of the vehicle when it is being hooked up, clarifies the obligation of the tow company to release a vehicle pursuant to subsection (b)(2) on page 4, lines 9 to 18. Heated exchanges between vehicle operators and tow companies are not unusual when the tow company refuses to drop the vehicle, even when it was moved only a few feet from the parking space. In these instances, tow companies have unreasonably claimed that the vehicle is no longer at the “scene,” and therefore, the vehicle is no longer eligible to be dropped. By establishing an objective standard as to what constitutes the “scene,” this enhanced certainty will reduce unnecessary conflict.

Third, the bill clarifies the definition of a “vehicle owner.” Retrieving a vehicle from a tow company is often the most stressful part of a tow because of pointless barriers that tow companies place on consumers who wish to recover a towed vehicle. The most problematic example is where the tow company allows only the legally registered vehicle owner to recover the vehicle. This restriction prevents a child from recovering a parent’s car that he or she has borrowed, as well as a lessee from recovering a car rental’s vehicle. To address these recurring issues, the definition of “vehicle owner” in this bill includes anyone having permission of the registered owner to operate the vehicle, including car rental lessees or family members possessing the

vehicle key or remote keyless ignition system. This expanded definition will allow authorized operators of towed vehicles to retrieve those vehicles from a tow yard or to instruct a tow truck operator to drop the vehicle at the scene.

Credit Cards

Current law does not require tow companies to accept credit cards if they have an ATM on the premises. This is problematic for consumers who do not have sufficient funds in their accounts. Mandating the acceptance of credit cards, which virtually everyone has, will make it easier for consumers to recover their vehicles in a timelier fashion.

Releasing Vehicles

The OCP has received consumer complaints that tow companies require the owner of a vehicle with expired tags to register the vehicle, obtain insurance, and obtain a new safety check before the vehicle can be released. However, it is nearly impossible for consumers to satisfy the tow company's vehicle registration requirement if the owner cannot take the vehicle to a certified safety inspection site. The amendments to releasing the vehicle will help remedy these problems.

Penalty Provisions

Current law does not explicitly make a violation of the towing law an unfair or deceptive trade practice. Adopting the penalties of HRS section 480-13 will bring violations of what is essentially a consumer protection statute in conformity with other consumer protection laws.

Abandoned Vehicles

This bill facilitates the processing of abandoned vehicles. Vehicles not recovered within 30 days by their vehicle owners are considered abandoned and can be sold or junked by the tow company if proper notice is provided to the legal owner. If a vehicle is sold, the authorized seller is entitled to the proceeds to cover any customary and reasonable charges for towing, handling, storage, as well as notice and advertising costs. The bill's two amendments to the sale of abandoned vehicles ensure that the remaining balance from the proceeds from the sale and the transfer of title of the sold vehicle will be handled properly.

First, the amendment to subsection (d) on page 8, lines 3 to 8 clarifies that the authorized seller must send any remaining balance from the sale of an unrecovered vehicle to the registered owner's address on record with the Department of Transportation or county Finance Department or, if no address is available, deposit the remaining balance into the State's Unclaimed Property Program administered by the Department of Budget and Finance. This amendment ensures that the monies from the sale of an unrecovered vehicle will go to the appropriate place when a vehicle owner cannot be found, after proper notice is given by the tow company.

Second, the amendment to subsection (e) on page 8, lines 12 to 17 clarifies that whenever an unrecovered vehicle is sold and title is transferred by operation of law, the provisions under HRS section 286-52(f), relating to transfers of title by operation of law, should be followed.

For the forgoing reasons, the Department strongly supports this bill. Its provisions will improve the towing statute and will diminish ambiguities that create additional and unreasonable barriers for vehicle owners whose vehicles have been towed.

Thank you for the opportunity to testify on this bill.

TESTIMONY OF DYLAN P. ARMSTRONG, INDIVIDUAL
BEFORE THE HOUSE COMMITTEE ON *FINANCE*

IN SUPPORT OF HOUSE BILL 2162
RELATING TO PREDATORY TOWING

Aloha Chair Luke, Vice Chair Cullen, and Members of Finance:

I write **in support** of the proposed measure, House Bill 2162 House Draft 2.

This measure clarifies existing regulations on vehicle towing to prevent gouging of vehicle owners with exorbitant and “predatory” fees. I favor stipulating under what conditions surcharges may be added to towing fees (such as \$30 for difficult hookups) as this measure does.

Additionally, I concur with comments by the Office of Consumer Protection, Department of Commerce and Consumer Affairs (DCCA) in their previous testimony for HB2162. Existing legal loopholes prevent poorer owners from being assured of recovery, as towing companies may only allow cash payment under existing law, versus credit card payment. Currently, towing companies appear to currently be immune to violations of HRS section 480-13, (Suits by persons injured; amount of recovery, injunctions) as to unfair or deceptive acts or practices. Previous testifiers have suggested that such unfair and deceptive acts are possibly commonplace. This measure also regulates conduct by the towing companies when the vehicle owner arrives on the “scene” of a towing.

If towing exists to remedy a situation, complicating and delaying the process after the vehicle owner has arrived during an attempted towing seems to be both counterproductive to the public interest and certainly burdensome on the owner. This is not a small complaint in a state with so many of our working people surviving with little-to-no savings (which reinforces the need for the proposed credit card provision) . House Bill 2162’s amendments to existing statute to expand options for the owner, increase the responsibility for the towing company, and facilitate recovering abandoned vehicles seem entirely reasonable. Indeed, HB2162 HD2 appears to strengthen the towing companies’ ability to process and dispose of abandoned vehicles.

In summary, in fairness to struggling working people, please pass HB2162 HD2. Thank you for your consideration.

Sincerely yours,



DYLAN P. ARMSTRONG, INDIVIDUAL

HB-2162-HD-2

Submitted on: 2/18/2020 9:19:15 AM

Testimony for FIN on 2/19/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Randy Gonce	Individual	Support	No

Comments:

Charessa Fryc
Kalihi Resident, District 29
954 Akepo Ln
Honolulu, HI 96817
IN STRONG SUPPORT
JAN 17, 2020

LATE

TO: HOUSE FINANCE COMMITTEE
RE: HB 2162 RELATING TO TOWING

Aloha Chair Luke, Vice Chair Cullen, and members of the FIN committee, My name is Charessa Fryc and I am a Constituent of the Kalihi District, 29 and I am in STRONG SUPPORT of this measure.

On a Wednesday night in the beginning of July, my mother's car was towed from her own parking stall in Kalihi. This is not a rare occurrence in Kalihi, specifically in her apartment complex where her neighbors have been wrongfully towed in the past, leaving them frustrated. On the night my mother's car was towed, supposedly it was towed because her parking pass "was not showing" when in fact, it was on her dashboard instead of her usual mirror. After parking in the same stall for seven months, the entire neighborhood had recognized that the black car in that stall was my mother's. Another neighbor's car was towed because his registration had expired. Lucky for him, his towing fee was reimbursed but not everyone had the same luck. My mother, on the other hand stood in the towing lot, struggling to find the money she needed to get her car back, and she could not use her credit card, since towing companies don't accept credit cards.

As I think about my mother's struggle to find the money she needed to get her car back, I reflected on the hardship other families face, when their car is wrongfully towed. What do families have to give up because they don't have the money to get their car back? Do they sacrifice a day or two of work because their car is far away, or do they have to give up a week of groceries to pay for their car back? Predatory towing poses undue hardships on disadvantaged communities and disproportionately affect areas such as Kalihi where many are living in affordable housing and poor neighborhoods. Currently, we don't have laws to prevent these damaging business practices that place the most vulnerable in our communities in the most difficult situations.

Towing companies are supposed to be there when you need them, when cars are parked illegally, abandoned vehicles need to be moved, and your car is stuck in the middle of the freeway. Not lurking in the dark to see which car can they tow next to make money. Towing companies need to be regulated, which is why I support this measure.

In Hawaii, our towing laws are little known and towing companies are constantly breaking laws, because there is no way to enforce them. Along with breaking laws, towing companies are not paying the consequences they deserve due to the lack of common knowledge of Hawaii's Towing Laws, and because lawsuits are too expensive to make it worth the time and effort to get justice served. The state of Hawaii has little regulation over towing companies which enable predatory towing practices, which is why I strongly Support this measure.

With all this said, I STRONGLY SUPPORT HB 2162, and urge you to pass this bill through your committee.

LATE

HB-2162-HD-2

Submitted on: 2/18/2020 11:32:04 PM

Testimony for FIN on 2/19/2020 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rochele Guthrie	Individual	Oppose	No

Comments:

HONOLULU TOWING INC.

933 OWEN STREET
HONOLULU, HI 96819
PH: (808)839-9494 FAX: (808)744-3169

LATE

TO: House Committee on Consumer Protection and Commerce

RE: Testimony in oppose of H.B.No. 2162

Thank you for this opportunity to allow myself to express and present this testimony regarding H.B. NO. 2162. This testimony is being opposed and offered on the behalf of Honolulu towing Inc. My name is Dayne Tavake, I am the president of a (*WOMEN OWNED BUSINESS*) and we provide services for insurance companies and for private properties across Oahu.

Defying "Scene" should be further detailed and reviewed. This bill states "scene" means the location of the vehicle while it is in the process of being hooked up, or the location where it was hooked up, and anywhere within a fifty-foot radius of that location. This definition of scene will surely have personals chasing after tow trucks for a fifty-foot radius putting themselves and tow truck drivers in danger. Instead of determining that radius where the vehicle was parked, I think a more reasonable and sensible measurement of "scene" should be where the vehicle is currently parked at before hooking up. Once that vehicle is moved entirely from the stall where it was parked, it will be considered that the vehicle has left the "scene". By doing such we will avoid having a pursuant going after the truck. This can prevent safety and traffic hazards.

For unhooking a vehicle within the fifty-foot radius there should be a unhooking fee charge due to the cost of services being provided for these potential violators. For example, if you violate parking on a public street police will site the vehicle and a possible tow will follow. But if the same violation occurs on private property vehicle owner can retrieve their vehicle if present on scene with no fees. Which is unfair and should be held at the same expense as a violator on public street. These potential violators should be held responsible.

"Vehicle Owner" should be defined as the legal and registered owner or authorized user. The bill states "vehicle owner" is anyone in possession of the keys or interest in the vehicle. This raises a big concern for us because of the liability factor. The potential of a unlawful release of a vehicle would increase due to multiple obstructions that may occur. For example, releasing a vehicle to someone with interest or possession of the keys does not define them as the registered owner or authorized user.

In our past we had a incident of releasing a vehicle to a employee of a dealership and a few months later we received a call from a detective seeking information about that vehicle and who it was released to because it was later reported stolen from the dealership after inventory was completed and that person we released it to was no longer an employee. If we release a vehicle on scene at no charge to any person with keys and or interest of the vehicle, we as a tow company would have no information of who's retrieving this vehicle and raises liability and responsibility for us. With this reason we respectfully ask to review this definition of "vehicle owner" and strongly advise that it be modified to release vehicles only to Legal and registered owners and or to a person renting the vehicle with contract.

Requiring tow companies to accept "Credit Card Payments". The wanting of these changes to accept credit cards should be reviewed furthermore because I have had a few experiences with accepting credit card payments, were customers pay for tow fees and once they leave in disapproval of the tow the customer would call to put a stop payment on their card. Now that leaves the tow company to dispute the valid payment with the card provider after we provided a service for a violation tow. Will DCCA or the state help to retrieve the lost in these payments that was charged back to us, the merchant.

Regarding the posted "Signage" for towing from private properties, I feel the size and color plays no part in stopping violators from continuing to park in unauthorized areas. The reflective signs should be reviewed because we experienced the signs that have the reflective coating to become not visible when light or flash hits the sign. To modify and create new signs it will cost properties and tow companies more money than the existing signs. Tow companies did not receive a raise in the last 13 years and then now we must compensate with these new signage requirements which I feel is very unfair.

In reference to the "Unfair or Deceptive Acts or Practices Law", tow companies are at mercy with the Department of Finance. We follow all the steps and send out written requests to The Department of Finance as soon as possible but we can still have a delay in receiving owner information which then can prolong our certified letters that need to be mailed within the 15 days of tow. The punishment and possibility of being sued deems too severe especially for something that is out of the tow companies control.

In finalization Honolulu towing objects this bill and requests that this be amended and held in committee.

Thank you,

Dayna Tavake

Honolulu Towing Inc.