

HB

65

A BILL FOR AN ACT

RELATING TO UNATTENDED VEHICLES.

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

1 SECTION 1. Section 290-11, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:
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~~]
6 \$ _____ for a tow using a dolly, plus a mileage charge
7 of [~~\$7.50~~] \$ _____ per mile towed and [~~\$25~~] \$ _____ per
8 day or fraction thereof for storage for the first
9 seven days and [~~\$20~~] \$ _____ per day thereafter. When
10 the tow occurs between the hours of six o'clock p.m.
11 and six o'clock a.m., from Monday through Thursday
12 [and], or from six o'clock p.m. Friday to six o'clock
13 a.m. Monday, the towing company shall be entitled to
14 an overtime charge of [~~\$15-~~] \$ _____. If the vehicle
15 is in the process of being hooked up or is hooked up
16 to the tow truck and the owner appears on the scene,
17 the towing company shall unhook the vehicle and shall



1 not charge any fee to the owner of the vehicle. In
2 the case of a difficult hookup, meaning an above or
3 below ground hookup in a multilevel facility, a towing
4 surcharge of [~~\$30~~] \$_____ shall be applicable;

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

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

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



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1 (C) That if the vehicle is not recovered within
2 thirty days after the mailing of the notice, the
3 vehicle shall be deemed abandoned and will be
4 sold or disposed of as junk.

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



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- 1 (3) Provide, when a vehicle is recovered by the owner
- 2 before written notice is sent by registered or
- 3 certified mail, the owner with a receipt stating:
- 4 (A) The maximum towing charges and fees allowed by
- 5 law; and
- 6 (B) The telephone number of the consumer information
- 7 service of the department of commerce and
- 8 consumer affairs; and
- 9 (4) Accommodate payment by the owner for charges under
- 10 paragraph (1) by cash and by either credit card or
- 11 automated teller machine located on the premises."

12 SECTION 2. This Act does not affect rights and duties that
 13 matured, penalties that were incurred, and proceedings that were
 14 begun before its effective date.

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

17 SECTION 4. This Act shall take effect upon its approval.

18

INTRODUCED BY: _____

T. Steiner

Linda L. Chizema

JAN 17 2019



H.B. NO. 65

Report Title:

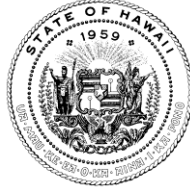
Transportation; Tow Trucks; Fees

Description:

Amends the maximum charges imposed for tow truck services.

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





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
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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 Consumer Protection and Commerce
Wednesday, February 6, 2019
2:00 p.m.
State Capitol, Conference Room 329**

**On the following measure:
H.B. 65, RELATING TO UNATTENDED VEHICLES**

Chair Takumi 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 opposes this bill.

The purpose of this bill is to amend the maximum charges imposed for tow truck services.

The Department does not see any basis for increasing the towing fees at this time. No evidence indicates that existing marketplace conditions support imposing higher towing rates on consumers, and no one has come forward to suggest that current rates have resulted in a decrease in services. Accordingly, before the Legislature authorizes any increase in towing fees, the industry should first come forward with data justifying the request.

Thank you for the opportunity to testify on this bill.

Good afternoon Representatives and committee members. My name is Roy Guthrie and I am representing Ace Towing Service. I have been in the Towing Industry for 37 years. I support Bill number HB-65.

Here are my thoughts on why I support this Bill. The part of the towing business that pertains to towing of vehicles from City and private properties are regulated by Sec. 290-11 of the HRS. This law is to keep towing companies in check so they don't just tow any vehicle from anywhere and also keeps towing companies from just throwing away customers vehicle's when they don't pick up their vehicles. This law also restricts the amount that towing companies can charge for an illegally parked tow.

Bill HB-65 is trying to raise the amount that towing companies will be allowed to charge. Unfortunately this type of towing businesses can't just charge more for a tow because Sec. 290-11 does not allow it. I can understand the reasoning behind this because there are tow companies that would charge unreasonable rates. But we also need to be reasonable and take a look in another direction. The last price increase happened in 2007, that's almost 12 years ago. A lot has happened in 11 years as to prices of goods and services. Prices have not gone down they have gone up, some more than others. The cost of doing business has substantially gone up. It is very hard to stay in business and keep up with the times when costs are going up and we can't charge more for our services. Just in the past few years our lease has gone up more than \$10,000 a month, that's \$120,000+ a year more. The minimum wage has increased 3 times in the last 3 years. When wages rise that's not the only costs that rise with it. Workman's comp and unemployment insurance cost rise accordingly. There is a lot of other expenses that have gone up over the years, fuel, maintenance etc...

There is also the Serviceman's Relief Act that has become full blown about 5 years ago in Hawaii. This Federal Law prohibits any tow company from disposing a vehicle that belongs to a person who is in active duty in the Armed Forces. This has caused towing companies to secure more storage areas store these vehicles with no end in sight. We have been storing cars at other locations for years now and are still paying to store these vehicles.

Towing companies that do this type towing are essential in Hawaii. We live on Islands where parking spaces on City streets and private properties are very limited. Towing services are needed by the City and County of Honolulu and the private sector. I have spoken to a lot of owners in this industry and they are all having a hard time with keeping up with the costs of operating. Real estate and operating costs with this current 12 year old towing rates needs be adjusted to cover these costs.

I notice that the old prices are left blank. I would like to make some suggestions in filling out these blanks. I would like to see the wording in the Bill to be simplified. In my opinion making these words simpler will be easier for citizens to understand and make the complaints to DCCA easier to handle. It will eliminate the dolly, overtime and the multi-level facility charges. The need to know if the vehicle was dollyed, what time was the vehicle towed and was the vehicle in a multi level facility, obsolete. This would also give the increase that we are trying to change. Here is what this would look like.

SECTION 1. Section 290-11, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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

- (1) Charge not more \$130.00 for a tow plus \$8.00 a mile towed, mileage must be calculated using Google Maps pending any road closures and \$50.00 per day or fraction thereof for storage for the first 7 days and \$40.00 per day thereafter. If the vehicle is in the process of being hooked up or is hooked up to the tow truck and the owner appears on the scene, the towing company shall unhook the vehicle and shall not charge any fee to the owner of the vehicle shall be applicable;

This is simple and easy to understand. If this can't be done here is another example.

SECTION 1. Section 290-11, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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

- (1) Charge not more than [~~\$65~~] \$100.00 for a tow, or [~~\$75~~] \$110.00 for a tow using a dolly, plus a mileage charge of [~~\$7.50~~] \$8.00 per mile towed, mileage must be calculated using Google Maps pending any road closures and [~~\$25~~] \$50.00 per day or fraction thereof for storage for the first seven days and [~~\$20~~] \$40.00 per day thereafter. When the tow occurs between the hours of six o'clock p.m. and six o'clock a.m., from Monday through Thursday [~~and~~], or from six o'clock p.m. Friday to six o'clock a.m. Monday, the towing company shall be entitled to an overtime charge of [~~\$15~~] \$20.00. If the vehicle is in the process of being hooked up or is hooked up to the tow truck and the owner appears on the scene, the towing company shall unhook the vehicle and shall not charge any fee to the owner of the vehicle. In the case of a difficult hookup, meaning an above or below ground hookup in a multilevel facility, a towing surcharge of [~~\$30~~] \$40.00 shall be applicable;

As a guide I used tow charges from the more populated Cities across the Pacific Ocean in the State of California to come up with these charges. These Cities are Los Angeles, San Francisco, San Jose and San Diego. The Average one mile tow from these Cities are \$353.07. The charges we used in the our examples are less than \$200.00 range. This is substantially lower than our counterparts.

LOS ANGELES

TOW \$130.00
STORAGE \$40.50
Mileage \$7.50
LA city
Release \$115.00
10% Tax \$2.93
TOTAL \$295.93

SAN FRANCISCO

TOW \$229.00
STORAGE \$56.00
DOLLY \$74.50
MILEAGE \$11.00
TOTAL \$370.50
\$200.00 ADMIN
FEE NOT ADDED IN

SAN JOSE

TOW \$215.00
STORAGE \$87.50
AFTER
HOURS \$85.00
TOTAL \$387.50

SANDIEGO

TOW \$178.00
STORAGE \$38.00
DOLLY \$47.00
AFTER HOURS \$47.00
IMPOUND
RECOVERY FEE \$47.00
Total \$357.00

I want to thank you for taking the time to read my testimony and letting me speak. I feel that that a price increase has been needed for years now. I also feel that this is fair and makes it easier for everyone involved.

Roy Guthrie
Ace Towing Service
1040 Makeopno St.
Honolulu, HI 96819
PH: 808-847-7811
8477811@gmail.com

TESTIMONY OF MICHAEL TANOUE

COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Representative Roy M. Takumi, Chair
Representative Linda Ichiyama, Vice Chair

Wednesday, February 6, 2019
2:00 p.m.

HB 65

Chair Takumi, Vice Chair Ichiyama, and members of the Committee on Consumer Protection & Commerce, 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.

HIC submits comments on this bill. The bill blanks out the maximum amount tow operators may charge. Any increase or decrease to costs associated with motor vehicle insurance will find its way into the premiums consumers pay.

Although we do not believe towing charges should increase, if the Legislature finds that they should, insurers will reflect it in future premiums

Thank you for the opportunity to testify.

HB-65

Submitted on: 2/4/2019 5:13:15 PM

Testimony for CPC on 2/6/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Barnaby Robinson	Waialae Towing	Support	No

Comments:

TO: Consumer Protection and Commerce

Roy M. Takumi, Chair

Linda Ichiyama Vice Chair

RE: TESTIMONY ON HOUSE BILL 65 –

RELATING TO UNATTENDED VEHICLES

POSITON: IN FAVOR OF PROPOSED RATE INCREASE

FROM: BARNABY ROBINSON

DATE: FEBRUARY 4, 2019

My name is Barnaby Robinson, owner of Waialae Towing service.

The Towing Industry rates are controlled by the State Legislature. We have not had a rate increase since 2007.

In light of all the increase in costs of being in business in Hawaii, we would appreciate your approval and consent of moving HB 65 forward.

This rate increase is vital for us to continue to provide vehicle and parking enforcement on the public streets and private property in Hawaii.

Thank you,

Barnaby Robinson

HB-65

Submitted on: 2/5/2019 1:15:49 AM

Testimony for CPC on 2/6/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jan Wakayama	Ace Towing Service	Support	No

Comments:

KUNI'S AUTOMOTIVE & TOWING
1061 Mikole Street
Honolulu, HI 96818
Tel. (808) 944-0009, Fax (808) 949-0333

February 5, 2019

Chairman, Roy M. Takumi
Vice Chair Linda Ichiyama
Committee on Consumer Protection and Commerce
State Capitol, Room, 329
Honolulu, HI 96813

Re: **HB 65, Relating to Unattended Vehicles**
Hearing Date: Wednesday, February 6, 2019, 2:00 p.m.
Hearing Place: Conf. Rm. 329, State Capitol, 415 S. Beretania St.

Dear Chairman Takumi, Vice Chair Ichiyama and Members of the Committees.

Thank you for allowing Kuni's to present testimony regarding HB 65.

My name is Brian S. Kunishige, and I am the President of Kuni's Enterprises, Inc., (KUNI'S), a full service towing and recovery operation, that provides primarily City Tow Sub-Contract Services. All-Island is the City Tow Contractor for all HPD initiated tows and Kuni's is a main Sub-Contractor providing services across most of Oahu. We are providing testimony in support of this bill as amended. As a City Tow Sub-Contractor our fees and rates are mandated pursuant to statute under HRS 290-11, pursuant to the City RFP.

It has been far too many years since the fees and rates under 290-11 have been increased. Hawaii businesses have suffered upturns in employee costs, taxes, utilities, employee benefits, insurance, among other everyday expenses. By far the largest and fastest escalating cost for our business is the cost of real estate and a properly zoned storage lot. Property values have risen astronomically in the past ten years and so consequently has the cost of rents for those valuable properties.

In order to continue to operate Kuni's respectfully requests a modest increase in the general tow charges from \$65.00 to \$85.00 for a regular tow and from \$75.00 to \$100.00 for a dolly tow. We seek a small increase of the mileage charge from \$7.50.00 per mile to \$9.00 per mile and a flat storage rate of \$50.00 per day. The overtime charge should likewise be increased to \$25.00 and difficult tows would increase to \$50.00.

February 5, 2019
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Last but not least, Kuni's respectfully requests that the body add to the above statute, the requirement that any business operating under 290-11, be able to charge State of Hawaii, General Excise Tax. These businesses have to pay the 4.712% to the state of Hawaii, but is not allowed to charge it to the customer, like any other business does.

Our preliminary research indicates that Hawaii is in the bottom 5% of the States when it comes to our charges for government initiated tows. In a City like San Francisco, where property values, like Hawaii are ever increasing, the City Tow fees are based on an hourly rate of \$200.00 per hour and a storage rate of \$80.00 per day. While those rates are impressive, our requests are more modest herein.

Kuni's supports the intent of HB 65, and respectfully requests that this legislation be amended and passed out of committee.

Sincerely,

Brian S. Kunishige
President

HB-65

Submitted on: 2/1/2019 7:01:22 PM

Testimony for CPC on 2/6/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Karen Winslow	Individual	Oppose	No

Comments:

HB-65

Submitted on: 2/2/2019 10:57:50 AM

Testimony for CPC on 2/6/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Vickie	Individual	Support	No

Comments:

I support this bill

HB-65

Submitted on: 2/2/2019 12:35:36 PM

Testimony for CPC on 2/6/2019 2:00:00 PM

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

Comments:

Going on to 12 years without a maximum increase in towing fees. It is much needed.

HB-65

Submitted on: 2/3/2019 11:25:46 AM

Testimony for CPC on 2/6/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Stephanie Moskwa	Individual	Support	No

Comments:

HB-65

Submitted on: 2/4/2019 2:23:12 AM

Testimony for CPC on 2/6/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Perry T Murata	Individual	Support	No

Comments:

I support this bill HB65

HB-65

Submitted on: 2/4/2019 1:00:42 PM

Testimony for CPC on 2/6/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kalei Kauai	Individual	Support	No

Comments:

The towing industry needs an increase in towing fees. They need to stay in buisness, so the violators can be towed from private properties and public streets.

HB-65

Submitted on: 2/5/2019 8:15:53 AM

Testimony for CPC on 2/6/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
ZIARIE	Individual	Support	No

Comments:

HB-65

Submitted on: 2/5/2019 9:43:20 PM

Testimony for CPC on 2/6/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
lyndam	Individual	Support	No

Comments:

HB-65

Submitted on: 2/5/2019 9:54:45 PM

Testimony for CPC on 2/6/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Ishikawa	Individual	Support	No

Comments:

HB-65

Submitted on: 2/6/2019 7:50:17 AM

Testimony for CPC on 2/6/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
ChristyAnn Kauai	Individual	Support	No

Comments:

I am for the HB 65 in passing.