

JAN 20 2023

A BILL FOR AN ACT

RELATING TO MOTOR VEHICLES.

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, even if the car is an authorized vehicle, charging
6 excessive fees for towing or storage, or making private deals
7 with owners of stores or parking lots to maximize towing income.
8 These practices result in unfair and excessive charges for the
9 vehicle owner and are especially damaging to low-income
10 individuals. The legislature further finds that the exorbitant
11 towing and storage costs associated with predatory towing may
12 disproportionately impact low-income community members. To
13 address predatory towing in residential areas, the legislature
14 believes that providing a list of authorized resident vehicles
15 to towing companies will help prevent authorized vehicles from
16 being towed from certain private property.

17 The purpose of this Act is to:



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- 1 (1) Require condominium associations and planned community
2 associations that have a service agreement with a
3 towing company to maintain and provide to the towing
4 company a "do not tow" list of authorized resident
5 vehicles; and
- 6 (2) Prohibit authorized vehicles on the "do not tow" list
7 from being towed, unless authorized by certain
8 individuals.

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

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

13 Notwithstanding any other provision of this chapter, any vehicle
14 left unattended on private or public property without
15 authorization of the owner or occupant of the property, may be
16 towed away at the expense of the vehicle owner, by order of the
17 owner, occupant, or person in charge of the property; provided
18 that there is posted a notice prohibiting vehicles to park on
19 the property without authorization. The notice shall clearly
20 state, in [~~not~~] no less than two-inch high, light reflective
21 letters on a contrasting background, that the vehicle parked



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1 without authorization will be towed and held at the expense of
2 the vehicle owner, as well as the name, address, and a telephone
3 number of the facility where the vehicle will be towed and held.
4 The notice shall be of such size and be placed in a location
5 that is clearly visible to the driver of a vehicle approaching
6 any individual marked or unmarked parking space; provided that
7 where an entire parking lot consists of restricted parking
8 spaces, placement of the notice at each entrance of the parking
9 lot shall suffice.

10 (b) Condominium associations governed under chapter 514B
11 and planned community associations governed under chapter 421J
12 that have a service agreement with a towing company shall
13 maintain a "do not tow" list of all resident vehicles that are
14 authorized to park on a condominium association's or planned
15 community association's property and shall provide this list to
16 the towing company. No authorized resident vehicle that is on
17 the "do not tow" list shall be towed or caused to be towed,
18 unless authorized to do so by:

19 (1) The person in charge of the property, as designated by
20 the condominium association or planned community
21 association;



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1 (2) A law enforcement officer; or

2 (3) A government agency.

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

5 (1) Charge ~~not~~ no more than \$65 for a tow, or \$75 for a
6 tow using a dolly, plus a mileage charge of \$7.50 per
7 mile towed and \$25 per day or fraction thereof for
8 storage for the first seven days and \$20 per day
9 thereafter. In the case of a difficult hookup, a
10 towing surcharge of \$30 shall apply. When the tow
11 occurs between the hours of six o'clock p.m. and six
12 o'clock a.m., from Monday through Thursday and from
13 six o'clock p.m. Friday to six o'clock a.m. Monday,
14 the towing company shall be entitled to an overtime
15 charge of \$15. The charges listed in this paragraph
16 shall be the only charges tow companies are authorized
17 to charge vehicle owners. For purposes of this
18 paragraph, "difficult hookup" shall mean an above or
19 below ground hookup in a multilevel facility;

20 (2) If the vehicle is in the process of being hooked up,
21 meaning up to the point when the tow truck is driving



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1 away, and the vehicle owner appears on the scene, the
2 tow company shall release the vehicle to the vehicle
3 owner at a location that ensures the safety of all
4 persons and property involved, regardless of whether
5 the release occurs on the scene or if the vehicle must
6 be removed from the scene to be safely released;
7 provided that no fee will be charged to the vehicle
8 owner under this paragraph;

9 (3) Determine the name of the legal owner and the last
10 registered owner of the vehicle from the department of
11 transportation or the county department of finance.

12 The legal owner and the last registered owner shall be
13 notified in writing at the address on record with the
14 department of transportation or with the county
15 department of finance by registered or certified mail
16 of the location of the vehicle, together with a
17 description of the vehicle, within a reasonable period
18 not to exceed fifteen days following the tow. The
19 notice shall state:

20 (A) The maximum towing charges and fees allowed by
21 law;



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

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

8 Where the legal owner and the last registered owner
9 have not been notified pursuant to this paragraph, the
10 vehicle may be recovered by the vehicle owner from the
11 towing company without paying tow or storage fees.

12 The notice need not be sent to a legal owner or last
13 registered owner or any person with an unrecorded
14 interest in the vehicle whose name or address cannot
15 be determined. Absent evidence to the contrary, a
16 notice shall be deemed received by the legal owner or
17 last registered owner five days after the mailing;

18 (4) Provide, when a vehicle is recovered by the vehicle
19 owner the vehicle owner with a receipt stating:

20 (A) The maximum towing charges and fees allowed by
21 law; and



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

4 (5) Accommodate payment by the vehicle owner for charges
5 under paragraph (1) by cash, credit card, or debit
6 card.

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

14 [~~(d)~~] (e) The authorized seller of the vehicle shall be
15 entitled to the proceeds of the sale to the extent that
16 compensation is due the authorized seller for services rendered
17 in respect to the vehicle, including reasonable and customary
18 charges for towing, handling, storage, and the cost of the
19 notices and advertising required by this part. Any remaining
20 balance shall be forwarded to the legal owner or last registered
21 owner of the vehicle if the legal owner or last registered owner



1 can be found. If the legal owner or last registered owner
2 cannot be found at the address on record at the department of
3 transportation or the county department of finance, the balance
4 shall be deposited with the State's unclaimed property program
5 administered by the department of budget and finance and shall
6 be paid out to the legal owner or last registered owner of the
7 vehicle if a proper claim is filed therefor within one year from
8 the execution of the sales agreement. If no claim is made
9 within the year allowed, the money shall become a state
10 realization.

11 [~~(e)~~] (f) The transfer of title and interest by sale under
12 this part is a transfer by operation of law, pursuant to the
13 requirements under section 286-52(f).

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



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1 ~~(g)~~ (h) Any person who violates any provision of this
2 section shall be deemed to have:

3 (1) Engaged in an unfair or deceptive act or practice in
4 the conduct of any trade or commerce within the
5 meaning of section 480-2 and subject to penalties and
6 remedies under chapter 480; and

7 (2) Furnished services without a license within the
8 meaning of section 487-13 and subject to penalties and
9 remedies under chapter 487.

10 ~~(h)~~ (i) This section shall not apply to a county that
11 has adopted ordinances regulating towing operations.

12 ~~(i)~~ (j) As used in this section:

13 "Hooked up" means completely and securely attached and
14 fastened to the tow truck by means of clamps, couplings, straps,
15 tow bars, and other mechanical devices that are specifically
16 designed to prevent the vehicle from dropping off or detaching
17 from the tow truck in any way or otherwise shifting in any
18 manner.

19 "Scene" means the location of the vehicle while it is in
20 the process of being hooked up, or the location where it was



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1 hooked up, and anywhere within a fifty foot radius of that
2 location.

3 "Vehicle owner" means any person, other than the towing
4 company, who has possession of or any other interest in the
5 vehicle, including but not limited to the legal or last
6 registered owner of the vehicle, the insurance company insuring
7 the vehicle, the person renting the vehicle pursuant to chapter
8 437D or any other law authorizing a person to operate the
9 vehicle, or any person in possession of the key or remote
10 keyless ignition system device to the vehicle.

11 "Vehicle parked without authorization" means any vehicle
12 left unattended on private or public property that is not parked
13 in compliance with the notice required by subsection (a).

14 "Vehicle parked without authorization" shall not include:

15 (1) A vehicle otherwise parked in compliance with the
16 notice required by subsection (a) where the vehicle
17 owner has prepaid for parking and placed a payment
18 receipt, placard, or permit anywhere on or in the
19 vehicle and the payment receipt, placard, or permit is
20 visible from outside the vehicle; or



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1 (2) A vehicle otherwise parked in compliance with the
2 notice required by subsection (a) where the vehicle
3 owner has received authorization from an owner,
4 occupant, or person in charge of the property and
5 placed the placard, permit, or written authorization,
6 if any, anywhere on or in the vehicle and the placard,
7 permit, or written authorization is visible from the
8 outside of the vehicle."

9 SECTION 3. Section 291C-165.5, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending subsection (b) to read:

12 "(b) The towing company shall determine the name of the
13 lien holder and the last registered owner of the vehicle from
14 the department of transportation or the county department of
15 finance. The lien holder and the registered owner shall be
16 notified by the towing company in writing at the address on
17 record with the department of transportation or with the county
18 department of finance by registered or certified mail of the
19 location of the vehicle, together with a description of the
20 vehicle, within a reasonable period not to exceed twenty days
21 following the tow. The notice shall state:



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

8 Any towing company engaged in towing pursuant to this section
9 shall comply with the requirements of section 291C-135. When
10 the vehicle is recovered after the tow by the last registered
11 owner or lien holder, the party recovering the vehicle shall pay
12 the tow and storage charges which shall not exceed the charges
13 as provided by section [~~290-11(b)~~] 290-11(c) or the rates agreed
14 upon with the respective counties, whichever is lower, except
15 that tow operators may charge additional reasonable amounts for
16 excavating vehicles from off-road locations; provided that if
17 the notice required by this section was not sent within twenty
18 days after the tow, neither the last registered owner nor the
19 lien holder shall be required to pay the tow and storage
20 charges. No notice shall be sent to a legal or last registered
21 owner or any person with any unrecorded interest in the vehicle



1 whose name or address cannot be determined. Any person who
2 violates any provision of this section shall be deemed to have:

3 (1) Engaged in an unfair or deceptive act or practice in
4 the conduct of any trade or commerce within the
5 meaning of section 480-2 and subject to the penalties
6 and remedies of chapter 480; and

7 (2) Furnished services without a license within the
8 meaning of section 487-13 and subject to penalties and
9 remedies under chapter 487."

10 2. By amending subsection (g) to read:

11 "(g) In the event that a motor vehicle is involved in an
12 accident and cannot be moved under its own power or is otherwise
13 disabled and constitutes an obstruction or hazard to traffic,
14 and the vehicle has not been ordered to be towed by the
15 applicable county police department, the towing of such vehicle
16 and the towing and storage expenses shall be subject to the
17 provisions of section [~~290-11(b).~~] 290-11(c)."

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

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

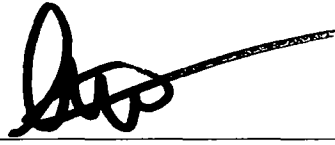
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INTRODUCED BY:



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Report Title:

Condominium Associations; Planned Community Associations;
Authorized Resident Vehicles; List

Description:

Requires condominium associations and planned community associations that have a service agreement with a towing company to maintain and provide to the towing company a "do not tow" list of authorized resident vehicles. Prohibits authorized vehicles that are on the "do not tow" list from being towed, unless authorized by certain individuals.

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

