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# A BILL FOR AN ACT

RELATING TO TOWING COMPANIES.

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

1           SECTION 1. 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)

5 Notwithstanding any other provision of this chapter, any vehicle  
6 left unattended on private or public property without  
7 authorization of the owner or occupant of the property, may be  
8 towed away at the expense of the vehicle owner, by order of the  
9 owner, occupant, or person in charge of the property; provided  
10 that there is posted a notice prohibiting vehicles to park on  
11 the property without authorization. The notice shall clearly  
12 state, in not less than two-inch high, light reflective letters  
13 on a contrasting background, that the vehicle parked without  
14 authorization will be towed and held at the expense of the  
15 vehicle owner, as well as the name, address, and a telephone  
16 number of the facility where the vehicle will be towed and held.  
17 The notice shall be of [~~such~~] a size and be placed in a location



1 that is clearly visible to the driver of a vehicle approaching  
2 any individual marked or unmarked parking space; provided that  
3 where an entire parking lot consists of restricted parking  
4 spaces, placement of the notice at each entrance of the parking  
5 lot shall suffice.

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

8 (1) Charge not more than [~~\$65~~] either:

9 (A) \$143 for a tow[~~7~~] occurring between the hours of  
10 six o'clock a.m. and six o'clock p.m., from  
11 Monday through Friday;

12 (B) \$165 for a tow occurring between the hours of six  
13 o'clock p.m. and six o'clock a.m., from Monday  
14 through Thursday or from six o'clock p.m. Friday  
15 to six o'clock a.m. Monday; or [~~\$75~~]

16 (C) \$22 for a tow using a dolly,  
17 plus a mileage charge of [~~\$7.50~~] \$16.50 per mile towed  
18 and [~~\$25~~] \$55 per day or fraction thereof for storage  
19 for the first seven days and [~~\$20~~] \$44 per day  
20 thereafter. In the case of a difficult hookup, a  
21 towing surcharge of \$30 shall apply. [~~When the tow~~



1 ~~occurs between the hours of six o'clock p.m. and six~~  
2 ~~o'clock a.m., from Monday through Thursday and from~~  
3 ~~six o'clock p.m. Friday to six o'clock a.m. Monday,~~  
4 ~~the towing company shall be entitled to an overtime~~  
5 ~~charge of \$15.]~~ The charges listed in this paragraph  
6 shall be the only charges tow companies are authorized  
7 to charge vehicle owners. For purposes of this  
8 paragraph, "difficult hookup" shall mean an above or  
9 below ground hookup in a multilevel facility;

10 (2) If the vehicle is in the process of being hooked up,  
11 meaning up to the point when the tow truck is driving  
12 away, and the vehicle owner appears on the scene, the  
13 tow company shall release the vehicle to the vehicle  
14 owner at a location that ensures the safety of all  
15 persons and property involved, regardless of whether  
16 the release occurs on the scene or if the vehicle must  
17 be removed from the scene to be safely released;  
18 provided that no fee will be charged to the vehicle  
19 owner under this paragraph;

20 (3) Determine the name of the legal owner and the last  
21 registered owner of the vehicle from the department of



1 transportation or the county department of finance.  
2 The legal owner and the last registered owner shall be  
3 notified in writing at the address on record with the  
4 department of transportation or with the county  
5 department of finance by registered or certified mail  
6 of the location of the vehicle, together with a  
7 description of the vehicle, within a reasonable period  
8 not to exceed fifteen days following the tow. The  
9 notice shall state:

10 (A) The maximum towing charges and fees allowed by  
11 law;

12 (B) The telephone number of the consumer information  
13 service of the department of commerce and  
14 consumer affairs; and

15 (C) That if the vehicle is not recovered within  
16 thirty days after the mailing of the notice, the  
17 vehicle shall be deemed abandoned and will be  
18 sold or disposed of as junk.

19 Where the legal owner and the last registered owner  
20 have not been notified pursuant to this paragraph, the  
21 vehicle may be recovered by the vehicle owner from the



1 towing company without paying tow or storage fees.

2 The notice need not be sent to a legal owner or last  
3 registered owner or any person with an unrecorded  
4 interest in the vehicle whose name or address cannot  
5 be determined. Absent evidence to the contrary, a  
6 notice shall be deemed received by the legal owner or  
7 last registered owner five days after the mailing;

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

10 (A) The maximum towing charges and fees allowed by  
11 law; and

12 (B) The telephone number of the consumer information  
13 service of the department of commerce and  
14 consumer affairs; and

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

18 (c) When a vehicle is not recovered within thirty days  
19 after the mailing of the notice, it shall be deemed abandoned  
20 and the owner of the towing company, or the owner of the towing  
21 company's authorized representative, after one public



1 advertisement in a newspaper of general circulation in the  
2 State, may negotiate a sale of the vehicle or dispose of it as  
3 junk.

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



1           (e) The transfer of title and interest by sale under this  
2 part is a transfer by operation of law, pursuant to the  
3 requirements under section 286-52(f).

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

11           (g) Any person who violates any provision of this section  
12 shall be deemed to have:

13           (1) Engaged in an unfair or deceptive act or practice in  
14 the conduct of any trade or commerce within the  
15 meaning of section 480-2 and subject to penalties and  
16 remedies under chapter 480; and

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

20           (h) This section shall not apply to a county that has  
21 adopted ordinances regulating towing operations.



1        (i) Any towing company engaged in towing pursuant to this  
2 section shall maintain a certificate of good standing issued by  
3 the department of commerce and consumer affairs.

4        [~~i~~] (j) As used in this section:

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

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

15        "Vehicle owner" means any person, other than the towing  
16 company, who has possession of or any other interest in the  
17 vehicle, including but not limited to the legal or last  
18 registered owner of the vehicle, the insurance company insuring  
19 the vehicle, the person renting the vehicle pursuant to  
20 chapter 437D or any other law authorizing a person to operate





1 the vehicle, or any person in possession of the key or remote  
2 keyless ignition system device to the vehicle.

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

6 "Vehicle parked without authorization" shall not include:

7 (1) A vehicle otherwise parked in compliance with the  
8 notice required by subsection (a) where the vehicle  
9 owner has prepaid for parking and placed a payment  
10 receipt, placard, or permit anywhere on or in the  
11 vehicle and the payment receipt, placard, or permit is  
12 visible from outside the vehicle; or

13 (2) A vehicle otherwise parked in compliance with the  
14 notice required by subsection (a) where the vehicle  
15 owner has received authorization from an owner,  
16 occupant, or person in charge of the property and  
17 placed the placard, permit, or written authorization,  
18 if any, anywhere on or in the vehicle and the placard,  
19 permit, or written authorization is visible from the  
20 outside of the vehicle."



1 SECTION 2. Section 291C-136, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+]§291C-136[+] Towing by consent; payment. (a)

4 Notwithstanding any other law to the contrary, towing companies  
5 engaged by the registered owner of a vehicle for towing  
6 services, including storage if any, shall release the towed  
7 vehicle to the registered owner, legal owner, insurer, or a  
8 designated representative upon payment of fees for towing  
9 services and storage of the vehicle; provided that payment may  
10 be made in cash or by debit card, credit card, insurance company  
11 check, commercial check, or automated teller machine located on  
12 the premises.

13 (b) Any towing company engaged in towing pursuant to this  
14 section shall maintain a certificate of good standing issued by  
15 the department of commerce and consumer affairs."

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

18 "(b) The towing company shall determine the name of the  
19 lien holder and the last registered owner of the vehicle from  
20 the department of transportation or the county department of  
21 finance. The lien holder and the registered owner shall be



1 notified by the towing company in writing at the address on  
2 record with the department of transportation or with the county  
3 department of finance by registered or certified mail of the  
4 location of the vehicle, together with a description of the  
5 vehicle, within a reasonable period not to exceed twenty days  
6 following the tow. The notice shall state:

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

14 Any towing company engaged in towing pursuant to this section  
15 shall comply with the requirements of section 291C-135[-] and  
16 maintain a certificate of good standing issued by the department  
17 of commerce and consumer affairs. When the vehicle is recovered  
18 after the tow by the last registered owner or lien holder, the  
19 party recovering the vehicle shall pay the tow and storage  
20 charges which shall not exceed the charges as provided by  
21 section 290-11(b) or the rates agreed upon with the respective



1 counties, whichever is lower, except that tow operators may  
2 charge additional reasonable amounts for excavating vehicles  
3 from off-road locations; provided that if the notice required by  
4 this section was not sent within twenty days after the tow,  
5 neither the last registered owner nor the lien holder shall be  
6 required to pay the tow and storage charges. No notice shall be  
7 sent to a legal or last registered owner or any person with any  
8 unrecorded interest in the vehicle whose name or address cannot  
9 be determined. Any person who violates any provision of this  
10 section shall be deemed to have:

- 11 (1) Engaged in an unfair or deceptive act or practice in  
12 the conduct of any trade or commerce within the  
13 meaning of section 480-2 and subject to the penalties  
14 and remedies of chapter 480; and  
15 (2) Furnished services without a license within the  
16 meaning of section 487-13 and subject to penalties and  
17 remedies under chapter 487."

18 SECTION 4. Section 507-73, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "[+]§507-73[+] **Occupant in default; motor vehicle or boat**  
21 **removal.** If an occupant is in default for sixty or more days



1 and the personal property stored in the leased space is a motor  
2 vehicle or boat, the motor vehicle or boat shall be deemed to be  
3 left unattended on private property without authorization of the  
4 owner of the property and may be towed away, at the expense of  
5 the owner of the motor vehicle or boat; provided that for  
6 purposes of this section, a vehicle may be towed pursuant to  
7 section 290-11; provided further that a towing company engaged  
8 pursuant to this section shall be a towing company registered in  
9 Hawaii[-] and shall maintain a certificate of good standing  
10 issued by the department of commerce and consumer affairs. At  
11 least fifteen days prior to having the motor vehicle or boat  
12 towed, the owner shall provide notice to the occupant, stating  
13 the name, address, and contact information of the towing  
14 company, by certified mail at the occupant's last known postal  
15 address and by electronic mail at the occupant's last known  
16 electronic mail address.

17 For purposes of applying section 290-11 to this section,  
18 the term "vehicle" shall be deemed to correspond to the terms  
19 "motor vehicle" and "boat".



1 SECTION 5. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4 SECTION 6. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect upon its approval.

7

INTRODUCED BY: *Kurt Falke*



# S.B. NO. 3287

**Report Title:**

DCCA; Towing Companies; Fees; Certificates of Good Standing

**Description:**

Changes the fees that a towing company may charge to tow vehicles left unattended on private and public property. Requires certain towing companies to maintain certificates of good standing issued by the Department of Commerce and Consumer Affairs.

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

