

ACT 269

H.B. NO. 895

A Bill for an Act Relating to Motor Vehicles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Significant increases in the number of abandoned and derelict vehicles being discarded on Hawaii's roadways degrade the beauty of our island state and pose a danger to the public by creating unsafe driving conditions on our highways. While towing companies provide a valuable public service for Hawaii's

motorists by removing many of these vehicles in a timely manner, increased costs in operating a towing service, along with increased “scrapping” costs for the disposal of unclaimed or derelict vehicles, have caused tow operators to incur financial hardships. Moreover, the current notification process required by law for the disposition of a motor vehicle that has been towed and determined to be abandoned or derelict is lengthy. In some instances, the process has taken upwards of three months. This increases costs incurred by the towing company for storage of the towed vehicle.

While the county in which the towing company is located is most often the requestor for the towing company to remove these abandoned and derelict motor vehicles, the county only pays for the initial towing service and does not pay for any storage fees incurred with the towed motor vehicle even though the storage of the vehicle may be of considerable cost to the towing company. A possible solution to this growing problem is to use funds from the highway beautification and disposal of abandoned or derelict vehicles revolving fund to defray some of the costs associated with storage of abandoned or derelict vehicles until they can be sold at auction or scrapped.

Removal of these vehicles should be accomplished as rapidly as possible. Providing the county and tow companies with the tools necessary to take custody and properly dispose of abandoned vehicles in a more efficient manner will aid in this task.

Accordingly, the purpose of this Act is to:

- (1) Allow counties to increase registration fees and thereby increase deposits into the highway beautification and disposal of abandoned or derelict vehicles revolving fund to defray costs associated with the storage of abandoned or derelict vehicles;
- (2) Increase towing and storage fees that towing companies are currently allowed to charge; and
- (3) Decrease the number of days in which the owner of the towed motor vehicle must be notified.

SECTION 2. Section 286-51, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) This part shall be administered by the director of finance in conjunction with the requirements of sections 249-1 to 249-13 and shall entail no additional expense or charge to the person registering the ownership of a motor vehicle other than as provided by this section or by other laws; provided that for each new certificate of ownership issued by the director of finance under section 286-52, the director of finance may charge a fee which shall be deposited in the general fund. The fees charged to issue a new certificate of ownership shall be established by the county’s legislative body.

Notwithstanding any other law to the contrary, an additional fee of not more than \$1 for each certificate of registration for a U-drive motor vehicle and \$2 for each certificate of registration for all other motor vehicles may be established by ordinance and collected annually by the director of finance of each county, to be used and administered by each county:

- (1) For the purpose of beautification and other related activities of highways under the ownership, control, and jurisdiction of each county; and
- (2) To defray the additional cost in the disposition and other related activities of abandoned or derelict vehicles as prescribed in chapter 290. For the purposes of this paragraph, other related activities shall include but need not be limited to any and all storage fees that are

negotiated between each county and a towing company contracted by the county to remove and dispose of abandoned or derelict vehicles.

The \$2 fee established pursuant to this subsection for certificates of registration for motor vehicles other than U-drive motor vehicles may be increased by ordinance up to a maximum of [~~\$5~~] \$10; provided that all amounts received from any fee increase over \$2 shall be expended only for the purposes of paragraph (2). The moneys so assessed and collected shall be placed in a revolving fund entitled, "the highway beautification and disposal of abandoned or derelict vehicles revolving fund".

SECTION 3. 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 [~~\$55~~] \$65 for a tow, or [~~\$65~~] \$75 for a tow using a dolly, plus a mileage charge of [~~\$6.50~~] \$7.50 per mile towed and [~~\$20~~] \$25 per day or fraction thereof for storage for the first seven days and [~~\$15~~] \$20 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 from Friday six o'clock p.m. to Monday six o'clock a.m., the towing company shall be entitled to an overtime charge of \$15.~~] If the vehicle is in the process of being hooked up to the tow truck and the owner appears on the scene before the vehicle has been moved by the tow truck, the towing company shall unhook the vehicle [upon payment by the owner of an "unhooking" fee of not more than \$50. If the owner is unwilling or unable to pay the "unhooking" fee, the vehicle may be towed]. In the case of a difficult hookup, meaning an above or below ground hookup in a multilevel facility, a towing surcharge of \$30 shall be applicable;
- (2) Determine the name of the legal owner and the registered owner of the vehicle from the department of transportation or the county department of finance. The legal owner and the registered owner shall be notified in writing at the address on record with the department of transportation or with the county department of finance by registered or certified mail of the location of the vehicle, together with a description of the vehicle, within a reasonable period not to exceed [~~twenty~~] fifteen days following the tow. The notice shall state:
 - (A) The maximum towing charges and fees allowed by law;
 - (B) The telephone number of the consumer information service of the department of commerce and consumer affairs; and
 - (C) That if the vehicle is not recovered within thirty days after the mailing of the notice, the vehicle shall be deemed abandoned and will be sold or disposed of as junk.

Where the owners have not been so notified, then the owner may recover the owner's car from the towing company without paying tow or storage fees; provided that the notice need not be sent to a legal or registered owner or any person with an unrecorded interest in the vehicle whose name or address cannot be determined. Absent evidence to the contrary, a notice shall be deemed received by the legal or registered owner five days after the mailing. A person, including but not limited to the owner's or driver's insurer, who has been charged in excess of the charges permitted under this section may sue for damages sustained and, if the judgment is for the plaintiff, the court shall award

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- the plaintiff a sum not to exceed the amount of the damages and reasonable attorney's fees together with the cost of suit;
- (3) Provide, when a vehicle is recovered by the owner before written notice is sent by registered or certified mail, the owner with a receipt stating:
 - (A) The maximum towing charges and fees allowed by law; and
 - (B) The telephone number of the consumer information service of the department of commerce and consumer affairs; and
 - (4) Accommodate payment by the owner for charges under paragraph (1) by cash and by either credit card or automated teller machine located on the premises.''

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

SECTION 5. This Act shall take effect on July 1, 2007.

(Became law on July 10, 2007, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)