



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 Judiciary**

**Monday, June 29, 2020
2:00 p.m.
State Capitol, Conference Room 325**

**On the following measure:
S.B. 2384, S.D. 2, H.D. 1, RELATING TO MOTOR VEHICLES**

WRITTEN TESTIMONY ONLY

Chair Lee 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 supports this bill.

The purposes of this bill are to: (1) authorize any vehicle involved in a motor vehicle accident that cannot be moved under its own power or is otherwise disabled to be towed away at the expense of the registered owner of the vehicle; (2) specify the applicable towing and storage fees for towing motor vehicles involved in accidents under certain circumstances; and (3) exempt certain automobile clubs or towing companies from motor vehicle towing and storage requirements.

Drivers are naturally distressed when they are involved in a motor vehicle accident, especially when their vehicle is damaged to the point it cannot be driven and

must be towed. Most drivers are unaware of how costly towing fees can be and are surprised when they receive an expensive towing bill after their car is towed.

Currently, the charges and fees for tows authorized by county police departments for the removal of vehicles for traffic violations are specified by law, whereas towing charges and fees for disabled vehicles due to a motor vehicle accident or other circumstances are not. This bill seeks to rectify this situation by preventing a tow company from imposing excessive charges associated with the tow.

The bill prohibits tow companies from charging registered owners exorbitant tow charges whenever a disabled vehicle is towed from an accident scene or site by specifying the applicable towing and storage fees. The bill also requires a tow operator to provide lienholders and registered owners of a disabled vehicle written notice: of the maximum towing charges and fees allowed by law, within a reasonable period not to exceed twenty days after a tow; of the telephone number of the county finance department that arranged for the tow; and that if the vehicle is not recovered within 30 days after the mailing, the vehicle will be deemed abandoned and will be sold or disposed of as junk.

For the forgoing reasons, the Department supports the bill's desire to prevent abuse by tow companies for tows involving a vehicle disabled in an accident.

Thank you for the opportunity to testify on this bill.

TESTIMONY OF ALISON UEOKA

COMMITTEE ON JUDICIARY
Representative Chris Lee, Chair
Representative Joy A. San Buenaventura, Vice Chair

Monday, June 29, 2020
2:00 p.m.

SB 2384, SD2, HD1

Chair Lee, Vice Chair San Buenaventura, and members of the Committee on Judiciary, my name is Alison Ueoka, President of the 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.

Hawaii Insurers Council supports this measure. This bill expands the statutory towing charges that exist today for vehicles left unattended, to disabled vehicles and motor vehicle accident tows. We believe this measure will help curtail price gouging by certain towing companies, especially immediately following a motor vehicle crash. We worked diligently with the proponents of this measure to reach an agreement in the language that is contained in SB 2384, SD2, HD1.

We ask that you pass this measure with an effective date upon approval. Thank you for the opportunity to testify.



To: The Honorable Chris Lee, Chair
The Honorable Joy San Buenaventura, Vice Chair
House Committee on Judiciary

From: Mark Sektnan, Vice President

Re: **SB 2384 SD2 HD1 – Relating to Motor Vehicles**
APCIA Position: SUPPORT

Date: Monday, June 29, 2020
2:00 p.m., Conference Room 325

Aloha Chair Lee, Vice Chair San Buenaventura and members of the Committee:

The American Property Casualty Insurance Association (APCIA) is pleased to support SB 2384 SD2 HD1 which authorizes any vehicle involved in a motor vehicle accident that cannot be moved under its own power to be towed away at the expense of the owner and specifies applicable fees under certain accidents. The bill also exempts automobile clubs. Representing nearly 60 percent of the U.S. property casualty insurance market, the American Property Casualty Insurance Association (APCIA) promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members represent all sizes, structures, and regions, which protect families, communities, and businesses in the U.S. and across the globe.

The vast majority of tow companies in Hawaii are honest, hard-working businesses that deliver a needed service for a fair price. The majority of accident tows on Oahu are police dispatched and the rates they charge are set by contract with the City and County. Unfortunately, there are a small number of towers that do not operate within the best practices of the industry and prey on people involved in an accident by showing up and often giving the impression that they were called by police dispatch. These tow truck operators then charge exorbitant fees to release the vehicle from storage. In some cases, these charges can be as high as \$100/day storage. These bills, which can run into the thousands of dollars are bad for both the consumer, who was not aware of the potential changes and the legitimate tow truck industry that is playing by the rules of fair business.

A Special Report titled *“The Cost of Abusive Vehicle Towing & Storage Practices is Growing,”* conducted last year by the Property Casualty Insurers Association (PCI) found that “the total nationwide cost of towing and storing damaged or disabled vehicles is \$4.7 billion a year. However, \$616 million, approximately 13 percent, of the total annual towing and storage costs result from predatory towing and storage tactics. More than 2/3 of those responding say that unreasonable fees are the biggest problem they face with

towing and storage. Meanwhile, over half of respondents ranked inconsistent and difficult release practices as the biggest problem they face during the claims process. These rankings are consistent with the 2011 PCI study, which also identified these problems.

SB 2384 SD2 HD1 would specify towing fees under certain accidents. The bill also exempts automobile clubs. The insurance industry has been working on legislation, often times with the various tow truck associations, to put a stop to unfair practices to better protect consumers.

For these reasons, APCIA asks the committee to *pass* this bill.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Sektnan', with a long horizontal flourish extending to the right.

Mark Sektnan
Vice President, State Government Relations
American Property Casualty Insurance Association



- Government Employees Insurance Company
- GEICO General Insurance Company
- GEICO Indemnity Company
- GEICO Casualty Company

TIMOTHY M. DAYTON, CPCU, GENERAL MANAGER ALASKA & HAWAII
711 Kapiolani Blvd., Suite 300 ■ Honolulu, HI 96813-5238 ■ Email: tdayton@geico.com
Direct: (808) 593-1875 ■ FAX (808) 593-1876 ■ Cell: (808) 341-9252

COMMITTEE ON JUDICIARY

Rep. Chris Lee, Chair
Rep. Joy A. San Buenaventura, Vice Chair

SB 2384, SD2 HD1 Relating to Motor Vehicles
Monday June 29, 2020; 2 pm
Room 325

Chair Lee, Vice Chair Buenaventura and Members of the Committee:

My name is Timothy M. Dayton, General Manager of GEICO. ***GEICO provides motor vehicle insurance for 178,000 Hawaii households.*** GEICO pays for thousands of tows from Hawaii accident scenes every year. There are a small (but growing) number of tow companies that prey upon Hawaii consumers at an accident scene, a time when most are quite vulnerable. Such towers commonly give the impression that they have been police dispatched and assure the consumer that they will bill the insurer directly. There is no disclosure of charges prior to the tow truck hooking up the vehicle and transporting it to their tow yard. When the customer or the customer's insurer attempts to retrieve the vehicle, the vehicle is held hostage for an unreasonable amount, often thousands of dollars. Since the bill includes daily storage charges, failure to pay the bill timely leads to a rapid escalation of excessive storage charges. GEICO and other insurers have consistently paid these exorbitant charges on the part of our customers.

GEICO has numerous examples of exorbitant charges. I have attached documents from one claim file that clearly illustrates the potential for abuse. GEICO's policyholder hit a concrete median on H1. The insured later told GEICO that he believed that the police had called the tow truck that towed his vehicle from H1. However, the company is not an HPD dispatched tower

and therefore not restricted to the authorized rates. Exhibit 1 shows the actual invoice for \$3,403.14 which GEICO paid. Exhibit 2 shows the fee schedule posted at the storage lot of the same tow company; had the company charged the rates displayed, the posted charges would have totaled approximately \$250 - \$300, a difference of over \$3,000.

GEICO's experience is that most Hawaii towers are legitimate operations in a challenging profession. Most are supportive of efforts to alleviate this abusive situation on the part of a few members of their profession.

GEICO very much appreciates the opportunity to present our testimony. **We support SB2384, SD2 HD1 and respectfully urge the Committees to pass the proposal.**

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy M. Dayton", with a long horizontal flourish extending to the right.

Timothy M. Dayton, CPCU

INVOICE
№ A-1687

Quick and Reliable Towing Service

Phone: 808- [REDACTED] yahoo.com

CHARGES FOR THE TOWING AND STORAGE OF VEHICLES

24-HOUR TOWING

Date 12/8/11 Time 10:23 PM
 Charged To FAA AUCTION
 Address _____

PURCHASE ORDER NO. _____ WORK ORDER NO. _____

LICENSE	YEAR	MAKE	MODEL	COLOR
[REDACTED]	<u>09</u>	<u>BMW</u>	—	<u>BLACK</u>

V.I.N. [REDACTED] TOWED FROM H7 East TOWED TO [REDACTED] ST

MILEAGE _____ DRIVER AVERY

Remarks _____

TRUCK # 106

TOW STORAGE CHARGE		
STORAGE CHARGE	\$100.00 x 10 DAYS	<u>500</u>
GAL-FUEL		
EXTRA MAN		
LOCK OUT		
30 FT. CABLE	<u>475</u>	<u>2250</u>
JUMPSTART		
TIRE CHANGE		
EN ROUTE MILES x \$		
TOWED MILES x \$		
TOWTRUCK CHARGE		<u>500</u>
CAR-CARRIER CHARGE		
HEAVY DUTY TRUCK		
LABOR CHARGE		
AFTER HRS. CALL OUT		
2ND TOW		
SUB TOTAL		<u>3250</u>
4.187% STATE TAX		<u>153.14</u>
TOTAL		<u>3403.14</u>

WAIVER

I hereby release from liability and responsibility said company and/or employees for any loss or damage to vehicles or articles incurred during tow or while in storage.

Authorized Signature _____

EXHIBIT
1

INFORMATION NOTICE

Hawaii Revised Statutes § 200-11, authority to the following rates:

Tow \$65.00 with Dolly \$75.00

Mileage Charge \$7.50 per mile

Overtime Charge \$15.00

(Tow occurs between the hours of 8:00pm - 8:00pm Monday - Thursday
and from 8:00pm Friday - 8:00am Monday)

Difficult Hookup Surcharge \$30.00
(Hookup above or below ground, in multi-level facility)

Storage Charge \$25.00
per day or a fraction thereof, for the first seven days

\$20.00
per day thereafter

Department of Commerce & Consumer Affairs
(808) 587-1234

EXHIBIT 2

June 28, 2020

Chair Chris Lee and Members of the Committee
House Committee on Judiciary
Hawaii House of Representatives

LATE

RE: Senate Bill 2384, SD2, HD1 – Motor Vehicle Towing

Dear Chair Lee and Members of the Committee:

The National Insurance Crime Bureau (NICB) is a national, century-old, not-for-profit organization supported by approximately 1,300 property and casualty insurance companies, including many who write business in Hawaii. Working hand-in-hand with our member companies and law enforcement, we investigate organized criminal conspiracies dealing with insurance fraud and vehicle crime.

Automobile accidents are a harrowing experience. In the immediate aftermath of an accident, a driver may be dealing with missing work or an appointment, distressed children, potential liability issues, traffic violations, other motorists trying to circumvent the wreck, and even injuries. This high-stress situation creates the perfect opportunity for an unscrupulous towing company to take advantage of a consumer.

Over the past few years, responding to the rogue practices among some towers, there has been an uptick in towing-reform legislation by states and municipalities, such as Arizona, California, and Missouri. In July 2018, the National Council of Insurance Legislators (NCOIL) adopted model towing legislation aimed at better protecting consumers.

Senate bill 2384, SD2, HD1 is a very modest step in the right direction by specifying applicable towing and storage fees for vehicles involved in accidents. Absent such specifications, some towers have been known to charge motorists or their insurers exorbitant fees, in the many thousands of dollars, for a few-mile tow, and hold the car hostage (with incurring storage fees) until it is paid. Moreover, they have been known to tack-on vague fees, such as transfer, gasoline, gate fees, or excessive administrative fees. It is not uncommon to see towing charges around \$10,000 for a single, routine tow.

Subsequently, we ask for your support of SB 2384, SD 2, HD1 which will help curtail rogue, dishonest towing practices while augmenting the credibility of the towing industry.

Thank you for your review and consideration; if you have any questions or need additional information, please contact me at hhandler@nicb.org or 847-544-7083.

Sincerely,



Howard Handler
Director, Government Affairs