

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Transportation
and
House Committee on Consumer Protection and Commerce**

**Friday, March 13, 2020
11:15 a.m.
State Capitol, Conference Room 423**

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

Chair Aquino, Chair Takumi, and Members of the Committees:

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 purpose of this bill is to require certain tow operators to provide a written and itemized disclosure of all charges and costs of a tow service prior to the attachment of a disabled motor vehicle to the tow truck in certain circumstances, such as after a motor vehicle accident.

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.

The disclosure requirement in this bill will eliminate any misunderstanding between drivers and tow companies whenever a vehicle is towed from an accident scene or site where it becomes disabled due to other circumstances. The bill requires a tow operator to provide drivers a written and itemized disclosure of all costs for the tow service before the vehicle is hooked up to the tow truck. The disclosure statement must be signed by the tow operator present at the location of the disabled vehicle to prevent any disagreement relating to the cost of the tow service when the driver receives the bill. Owners of vehicles that are disabled due to a motor vehicle accident and towed pursuant to Hawaii Revised Statutes section 291C-165.5 are also required to receive the same written disclosure statement from the tow companies.

For the forgoing reasons, the Department supports the bill's desire to improve transparency in private tows by requiring tow companies to provide written estimates before the vehicle is hitched to the tow truck.

Thank you for the opportunity to testify on this bill.



LATE

AAA.com

March 12, 2020

TO: Rep. Henry Aquino, Chair Transportation
Rep. Roy Takumi, Chair Consumer Protection and Commerce
Members of the House Committee on Transportation
Members of the House Committee on Consumer Protection and Commerce

FR: Liane Sumida, General Manager

RE: SB2384 RELATING TO MOTOR VEHICLES. – SUPPORT
Requires certain tow operators to provide a written disclosure of certain information and an itemization of charges prior to attaching a disabled vehicle to the tow truck in certain circumstances.

AAA Hawaii was founded in 1915 in Honolulu and is a leader in motorist services and roadside assistance and a strong advocate for motorists and traffic safety. With 165,000 members, service to and the safety of our members and all road users is our founding and continuing purpose.

AAA Hawaii supports efforts to ensure motorists are adequately informed and better protected regarding the costs for towing and related services. However, SB 2384 (Rhoads) treated all towing operations generally the same when introduced. As amended, this bill now better recognizes towing is just one of many benefits covered by a flat membership due in an automobile club.

We believe SB 2384, as amended, stays true to the intent and the purpose of the bill, regarding towers who may not adequately inform vehicle owners of service charges, without adding unnecessary complications for AAA Hawaii members when seeking roadside assistance from their automobile club. Based on these changes, AAA Hawaii supports this bill and the state's overall efforts to protect motorists' rights.

Thank you very much for your consideration.

Sincerely,

Liane Sumida

Liane Sumida
General Manager





To: The Honorable Henry J.C. Aquino, Chair
 The Honorable Troy N. Hashimoto, Vice Chair
 House Committee on Transportation

 The Honorable Roy M. Takumi, Chair
 The Honorable Linda Ichiyama, Vice Chair
 House Committee on Consumer Protection and Commerce

From: Mark Sektnan, Vice President

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

Date: Friday, March 13, 2020
 11:15 a.m., Conference Room 423

Aloha Chairs Aquino and Takumi, Vice Chairs Hashimoto and Ichiyama and members of the Committees:

The American Property Casualty Insurance Association (APCIA) is pleased to support SB 2384 SD2 which requires a tow truck company, not operating under a police department contract, to provide a written estimate for services prior to the attachment of a motor vehicle to the tow truck when towing a motor vehicle from an accident. The bill also specifies the fees that may be charged for services. 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 would require customers be given a written estimate of charges to include notification that the tow truck company was not dispatched by the police which the customer will sign to acknowledge. Failure to provide the notice will require the tow truck companies to adhere to police dispatch rates. The insurance industry has been working on legislation, often times with the various tow truck associations, to put a stop to these types of 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

TESTIMONY OF ALISON UEOKA

COMMITTEE ON TRANSPORTATION
Representative Henry J. C. Aquino, Chair
Representative Troy N. Hashimoto, Vice Chair

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

Friday, March 13, 2020
11:15 a.m.

SB 2384, SD2

Chair Aquino, Vice Chair Hashimoto, and members of the Committee on Transportation, and Chair Takumi, Vice Chair Ichiyama, and members of the Committee on Consumer Protection & Commerce, 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 submits comments on this bill. While we support the intent of this bill which is to avoid price gouging of tow operators to unsuspecting motor vehicle operators, we believe the current draft of this bill will only confuse consumers and possibly bind insurers to pay an unreasonably high price.

We have worked extensively with the bill's proponent and have agreed to make the following amendments to this bill:

1. Delete Sections 1 and 2.
2. Amend subsection (g) to add in the appropriate section cite to Sec. 290-11(b).

3. Amend subsection (h) to add insurers and motor vehicle manufacturers to those who can contract with towing companies so that the second sentence in subsection (h) would read as follows,

“(h) ... This section shall not apply to automobile clubs or towing companies operating under a contract with an automobile club, insurer, or motor vehicle manufacturer.”

With these amendments, we support the bill. Thank you for the opportunity to testify.



KOBAYASHI SUGITA & GODA, LLP
Attorneys at Law

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March 11, 2020

TESTIMONY SUBMITTED ELECTRONICALLY

Chair Henry J.C. Aquino and
Members of the House Transportation Committee
State Capitol, Room 419
415 South Beretania Street
Honolulu, Hawaii 96813

Chair Roy M. Takumi and
Members of the House Consumer Protection Committee
State Capitol, Room 320
415 South Beretania Street
Honolulu, Hawaii 96813

Re: Testimony IN SUPPORT of Senate Bill 2384, SD 2
Joint Hearing of the House Transportation and Consumer
Protection Committees
Date: March 13, 2020

Dear Chairs Aquino and Takumi and Members of the House Transportation and Consumer
Protection Committees:

We represent GEICO Insurance Agency, Inc., (“GEICO”). Thank you for this opportunity to testify in favor of Senate Bill 2384, S.D. 2 (SB 2384), as submitted by Senators Karl Rhoads and Roslyn Baker. Mr. Tim Dayton of GEICO has previously submitted testimony documenting the type of abuse that SB 2384, S.D. 2 seeks to prevent. Without the provisions of this bill, unregulated tow and storage charges for tows can result in significantly great cost to an unknowing car owner or driver, as shown by Mr. Dayton’s example.

The language in SB 2384 is in part, based on language adopted by the California legislature. Since its original introduction, GEICO along with other insurers and trade groups have had several

discussions and considered comments and suggested changes from others including the Hawaii Insurers Council (“HIC”). Based upon these discussions, GEICO is proposing amendments to SB 2384, SD 2, as set forth below, which are intended to simplify and clarify this bill. We understand that HIC agrees with these amendments. If adopted, the amended bill would become House Draft 1. Using the section references and line numbers in the current bill, GEICO is proposing, and we understand HIC has concurred, with the following amendments:

1. The proposed amendment to Chapter 290, Hawaii Revised Statutes included in existing Section 1 of the existing Bill, would be deleted.
2. The proposed amendment to the title of Chapter 290 Hawaii Revised Statutes included in existing Bill be deleted.
3. Section 3 in the existing Bill would be renumbered to the new “Section 1” and the proposed amendment to Section 291C-165.5(a) through (f), Hawaii Revised Statutes as stated on Page 4, Lines 8 through 21, Pages 5-7 and Page 8, Lines 1 through 7 in the existing Bill would remain as is.
4. The new statutory language proposed in a new subsection (g) to Section 291C-165.5, Hawaii Revised Statutes, as stated on Page 8, Lines 8 through 14 in the existing Bill would remain except that the reference to “section 290-___” would now specifically reference existing Section 290-11(b), Hawaii Revised Statutes.
5. The new statutory language proposed in new subsection (h) to Section 291C-165.5 Hawaii Revised Statutes, as reflected on Page 8, Line 15-21 and Page 9, Line 1 through 4 in the existing Bill would remain, except amended to add the phrase “insurer or motor vehicle manufacturer” after the phrase “operating under a contract with an automobile club”. As revised, the new subsection (h) to Section 291C-165.5, Hawaii Revised Statutes would read:

[~~(g)~~] (h) This section shall not apply to a county that has adopted ordinances regulating towing operations. This section shall not apply to automobile clubs or towing companies operating under a contract with an automobile club, insurer or motor vehicle manufacturer. For purposes of this subsection, "automobile club" means a legal entity that, in consideration of dues, assessments, or periodic payments of money, promises to assist its members or subscribers in matters relating to motor travel or the operation, use, or maintenance of a motor vehicle


Chairs Henry J.C. Aquino and Roy M. Takumi
And Members of the House Transportation and
House Consumer Protection Committees
March 11, 2020
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by supplying services that may include, but are not limited to
towing services and emergency road service.

6. The remaining section references would be renumbered appropriately and the current effective date would be corrected to become effective upon enactment.

The intent of this bill and these revisions is to take away any incentive on the part of tow companies to circumvent the tow and storage charge limitations imposed when the police order a tow using the contracted tow company.

Very truly yours,



DAVID M. LOUIE

BURT T. LAU

for

KOBAYASHI SUGITA & GODA, LLP

Cc: Mr. Tim Dayton, GEICO
Ms. Alison Ueoka, Hawaii Insurers Council



March 12, 2020

Chairs Henry J.C. Aquino, Roy M. Takumi, and Members of the Joint Committee
Joint Committee on Transportation/Consumer Protection and Commerce
Hawaii House of Representatives

RE: Senate Bill 2384, SD2 – Motor Vehicle Towing

Dear Chairs Aquino, Takumi, 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 is a very modest step in the right direction by requiring towers to provide, prior to an accident scene tow, a written estimate. Without a written estimate, 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 tow.

Subsequently, we ask for your support of SB 2384, SD 2, 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,

A handwritten signature in blue ink that reads "Howard Handler". The signature is fluid and cursive, with the first name "Howard" and last name "Handler" clearly legible.

Howard Handler
Director, Government Affairs



- 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

House Committee on Transportation

Rep. Henry J. C. Aquino, Chair
Rep. Troy N. Hashimoto, Vice Chair

House Committee on Consumer Protection & Commerce

Rep. Roy M. Takumi, Chair
Rep. Linda Ichiyama, Vice Chair

SB 2384, SD2 Relating to Motor Vehicles
Friday, March 13, 2020; 11:15 am
Room 415

Chair Aquino, Vice Chair Hashimoto, Chair Takumi, Vice Chair Ichiyama and
Members of the Committees:

My name is Timothy M. Dayton, General Manager of GEICO. ***GEICO provides motor vehicle insurance for 175,000 Hawaii households.*** GEICO pays for thousands of tows from 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'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. 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.

Since the introduction of SB 2384, SD 2, we have had many discussions with other insurance companies and trade groups, including the Hawaii Insurers Council. We have agreed together to submit under separate cover a further proposed amendment to SB 2384, SD 2 to simplify and clarify this bill.

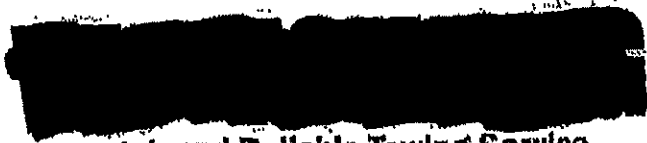
GEICO believes that most Hawaii towers are legitimate operations in a challenging profession. We are confident that most would be supportive of efforts to alleviate this abusive situation on the part of a few members of their profession.

GEICO very much appreciates the opportunity to present our testimony. **We support SB2384, SD2 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 12/8/17 Time 12:23 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>---</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	<u>500</u>
100' BOX 10 DAYS	
GAL. FUEL	
EXTRA MAN	
LOCK OUT	
<u>30 FT.</u> CABLE	<u>2750</u>
JUMPSTART	
TIRE CHANGE	
EN ROUTE MILES x \$	
TOWED MILES x \$	
TOW TRUCK CHARGE	<u>500</u>
GAR-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 towing or while in storage.

[Signature]

EXHIBIT

1

INFORMATION NOTICE

Hawaii Revised Statutes, § 300-10, authorizes the following rates:

Tow \$65.00 with Dolly \$25.00

Mileage Charge \$7.50 per mile

Overtime Charge \$13.00

(Now occurs between the hours of 8:00pm - 6:00pm Monday - Thursday
and from 6:00pm Friday - 6:00am 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
(800) 887-1234

EXHIBIT 2

SB-2384-SD-2

Submitted on: 3/12/2020 9:42:03 PM

Testimony for TRN on 3/13/2020 11:15:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Naomi Melamed	Individual	Support	No

Comments: