

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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CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Transportation
Wednesday, February 5, 2020
1:15 p.m.
State Capitol, Conference Room 225**

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

Chair Inouye 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 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.

TESTIMONY OF MICHAEL ONOFRIETTI

COMMITTEE ON TRANSPORTATION
Senator Lorraine R. Inouye, Chair
Senator Breene Harimoto, Vice Chair

Wednesday, February 5, 2020
1:15 p.m.

SB 2384

Chair Inouye, Vice Chair Harimoto, and members of the Committee on Transportation, my name is Michael Onofrietti, ACAS, MAAA, CPCU, Senior Vice President, Actuarial Services, Product Development & Management for Island Insurance and Chairman of the Auto Policy committee for 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 the bill which is to protect motor vehicle operators from unscrupulous tow operators, this bill may put the motor vehicle operator in physical harm's way and place them in a position to agree to an estimate by the tow operator under duress. Finally, an agreement or alleged agreement by an insured may bind the insurer to a higher than necessary cost.

Unfortunately, many persons have been injured or killed as they stand outside their vehicles on the side of the road or on a shoulder. If a tow operator is presenting a disclosure, including the cost of the tow, to a motor vehicle operator to read and agree to after a motor vehicle crash, it compounds an already stressful situation. There is no way a motor vehicle operator would know if the information contained in the disclosure is correct with regard to the price of a police-dispatched tow. If the motor vehicle operator does not agree to the estimate,

the tow operator may depart without towing the vehicle, leaving the motor vehicle operator no choice but to agree. If the insured agrees to the disclosure not knowing the price is unreasonably high, the insurer may be bound by their policyholder's action, which would defeat the purpose of the bill.

The location of the vehicle and its operator may be dangerous, it may be in darkness and in inclement weather. These conditions would make it even more difficult for a motor vehicle operator to refuse to agree or ask questions of the tow operator.

While adding more regulations to tow operators acting within the law, this bill does nothing to prevent an unscrupulous tow operator from disregarding the law entirely.

Thank you for the opportunity to testify.



February 5, 2020

TO: Senator Lorraine R. Inouye, Chair Transportation
Senator Breene Harimoto, Vice Chair Transportation
Members of the Senate Committee on Transportation

FR: Liane Sumida, General Manager

RE: **SB2384 RELATING TO MOTOR VEHICLES. – COMMENTS**

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.

We appreciate that you are considering a proposal to ensure motorists are informed and better protected regarding the costs for towing and related services. Unfortunately, situations do arise when motorists are not adequately informed about these issues.

The proposed legislation excludes automobile club contract towers from being subject to its requirements. However, as written now, the proposed legislation still includes towing services provided by AAA Hawaii's own fleet of tow trucks. We do not believe this is the intention of the author of the bill. Whether service is provided by the AAA Hawaii fleet or towing companies under contract with AAA Hawaii, we have an established relationship with our members, we regularly inform our members about dues and other service charges, and most tows provided to AAA Hawaii members are part of their membership and do not incur any additional expense.

Therefore, we respectfully request that the following amendment, in red underline, be included in SB2384:

§290 – (c) “This section shall not apply to automobile clubs or towing companies operating under a contract with a police department or an automobile club. For purposes of this subsection, "automobile club" means a legal entity that, in consideration of dues, assessments, or periodic payments of money, promises its members or subscribers to assist in matters relating to motor travel or the operation, use, or maintenance of a motor vehicle by supplying services that may include, but are not limited to towing services and emergency road service.”

§291C-165.5 (h) “This section shall not apply to a county that has adopted ordinances regulating towing operations. This section shall also not apply to automobile clubs or towing companies operating under a contract with an automobile club. For purposes of this subsection, "automobile club" means a legal entity that, in consideration of dues, assessments, or periodic payments of money, promises its members or subscribers to assist in matters relating to motor travel or the operation, use, or maintenance of a motor vehicle by supplying services that may include, but are not limited to towing services and emergency road service.”

We believe these amendments stay true to the intent and the purpose of the bill, in regard to 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.

Thank you very much for your consideration.

Sincerely,

Liane Sumida

Liane Sumida
General Manager

1130 N. Nimitz Highway, Suite A170, Honolulu, HI 96817

Auto Club Enterprises provides service to more than 14 million members



We're always with you.®



February 3, 2020

Chair Lorraine R. Inouye and Members of the Committee
Committee on Transportation
Hawaii State Senate

RE: Senate Bill 2384 – Motor Vehicle Towing

Dear Chair Inouye 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 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.

Subsequently, we ask for your support of SB 2384 which will help curtail 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".

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

COMMITTEE ON TRANSPORTATION
Senator Lorraine R. Inouye, Chair
Senator Breene Harimoto, Vice Chair
Wednesday February 5, 2020
SB2384 - RELATING TO Motor Vehicles

Chair Inouye, Vice Chair Harimoto and Members of the Senate Transportation Committee:

My name is Timothy M. Dayton, General Manager of GEICO. GEICO provides motor vehicle insurance for 173,000 Hawaii households. GEICO pays for thousands of tows from accident scenes every year. There is a small (but growing) number of tow companies that prey upon 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 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 authorized police 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.

This Bill is similar to legislation enacted a in California. We believe that most towers will not want to go through the steps of providing the detailed estimate and disclosure and will instead adopt the charges prescribed in the Bill.

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

Sincerely,


Timothy M. Dayton, CPCU

INVOICE
 No A-1687

Quick and Reliable Towing Service

Phone: 808- [REDACTED]

[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]	09	BMW	—	BLACK

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

MILEAGE _____ DRIVER AVERY

Remarks _____

TRUCK # 106

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 _____

TOW STORAGE CHARGE	
STORAGE CHARGE: \$100.00 X 12 DAYS	500
GAL-FUEL	
EXTRA MAN	
LOCK OUT	
30 FT. CABLE \$75	2250
JUMPSTART	
TIRE CHANGE	
EN ROUTE MILES X \$	
TOWED MILES X \$	
TOW TRUCK CHARGE	500
CAR-CARRIER CHARGE	
HEAVY DUTY TRUCK	
LABOR CHARGE	
AFTER HRS. CALL OUT	
2ND TOW	
SUB TOTAL	3250
4.167% STATE TAX	153.14
TOTAL	3403.14

EXHIBIT

1

INFORMATION NOTICE

Hawaii Revised Statutes #290-11, authorize the following rates:

Tow \$65.00 with Dolly \$25.00

Mileage Charge \$7.50 per mile

Overtime Charge \$15.00

(Tow occurs between the hours of 8:00pm - 6:00am 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

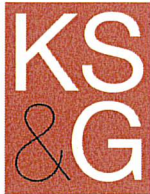
per day or a fraction thereof, for the first seven days

\$20.00

per day thereafter

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

EXHIBIT 2



KOBAYASHI SUGITA & GODA, LLP
Attorneys at Law



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Caycie K. G. Wong

February 4, 2020

TESTIMONY SUBMITTED ELECTRONICALLY

Chair Lorraine Inouye and
Members of the Senate Transportation Committee
State Capitol, Room 225
415 South Beretania Street
Honolulu, Hawaii 96813

Re: Testimony in Support of Senate Bill 2384
Hearing Date: February 5, 2020

Dear Chair Inouye and Members of the Senate Transportation Committee:

We represent GEICO Insurance Agency, Inc., (“GEICO”). Thank you for this opportunity to testify in favor of Senate Bill 2384 (SB 2384), as submitted by Senators Karl Rhoads and Roslyn Baker. Mr. Tim Dayton of GEICO has already submitted testimony documenting the type of abuse, SB 2384 seeks to prevent. The unregulated tow and storage charges, can result in significantly greater cost to the 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. It requires that a detailed written disclosure of charges be provided to the vehicle owner or driver before the tow occurs, and only after the vehicle owner or driver agrees to that tow. More importantly, SB 2384 seeks to include vehicles which are damaged in a motor vehicle accident or are otherwise disabled on a State or County roadway, to the category of tows that are subject to the rates set forth in Section 290-11(b), or the rates contracted for by the County police department, whichever charges are lower.

Chair Lorraine Inouye
And Members of the Senate Transportation Committee
February 4, 2020
Page 2

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

Very truly yours,

A handwritten signature in black ink, appearing to be "David M. Louie", written over a series of overlapping loops.

DAVID M. LOUIE
BURT T. LAU

for
KOBAYASHI SUGITA & GODA, LLP

Cc: Mr. Tim Dayton, GEICO



To: The Honorable Senator Lorraine R. Inouye, Chair
The Honorable Senator Breene Harimoto, Vice Chair
Senate Committee on Transportation

From: Mark Sektnan, Vice President

Re: **SB 2384 – Towing Charges**
APCIA Position: SUPPORT

Date: Wednesday, February 5, 2020
1:15 p.m., Conference Room 225

LATE

Aloha Chair Inouye, Vice Chair Harimoto and Members of the Committee:

The American Property Casualty Insurers Association of America (APCIA) is pleased to support SB 2384 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 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.