



LINDA LINGLE
GOVERNOR
JAMES R. AIONA, JR.
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: (808) 586-2850
Fax Number: (808) 586-2856
www.hawaii.gov/dcca

LAWRENCE M. REIFURTH
DIRECTOR
RONALD BOYER
DEPUTY DIRECTOR

PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
OFFICE OF CONSUMER PROTECTION

TO THE HOUSE COMMITTEE ON TRANSPORTATION

TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION OF 2009

Wednesday, February 4, 2009
8:30 a.m.

TESTIMONY ON HOUSE BILL NO. 1518 – RELATING TO MOTOR VEHICLES.

TO THE HONORABLE JOSEPH M. SOUKI, CHAIR, AND MEMBERS OF THE
COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify in opposition to House Bill No. 1518, Relating to Motor Vehicles. My name is Stephen Levins, and I am the Executive Director of the Department's Office of Consumer Protection ("OCP").

House Bill No. 1518 seeks to undercut the application of Hawaii's General Excise Tax ("GET") by making a special exception for Tow Truck operators who tow vehicles pursuant to Section 290-11 of the Hawaii Revised Statutes. Under current Hawaii law, it is illegal to visibly pass on the GET if the price of goods or services is fixed by law.

Consequently, in the instances of insurance commissions or towing charges, businesses cannot add on a tax component which would exceed the statutory rate. By allowing tow companies to pass on Hawaii's GET for Chapter 290 tows, this bill will award the towing industry with a privileged exception to current Hawaii law that no other industry appears to enjoy.

If this proposal were to become law, it would be the third consecutive year in which the Hawaii Legislature has authorized a price increase for Chapter 290 tows. Two years ago, the legislature increased several of the towing fees. Pursuant to Act 269, of the 2007 Legislature, towing fees for a basic tow increased from \$55 to \$65, dolling towing fees increased from \$65 to \$75, daily storage fees increased from \$20 to \$25, and mileage fees increased from \$6.50 per mile to \$7.50 per mile. One year ago in 2008, the towing industry received an increase of \$15. Pursuant to Act 135, of the 2008 Legislature, a \$15 overtime charge was reinstated. House Bill No. 1518 would again increase towing costs on consumers, from 4.2% on the neighbor islands to 4.712% on Oahu. On towing fees of \$200, consumers would be burdened with paying almost another \$10.

Rejecting this proposal does not mean that the towing industry cannot pass on the GET. It is important to note that the current restriction on passing on the GET only applies to those tows subject to Chapter 290 of the Hawaii Revised Statutes, where the

rates are set by statute. The private tows are not impacted. Consequently, in those instances, the towing companies are free to pass on the GET, like any other business.

In view of the fact that the towing industry has already obtained substantial increases for Chapter 290 tows during the past two years, it is inappropriate to award them a third consecutive increase and, in the process, burden consumers with increased costs.

Thank you for this opportunity to testify on House Bill No. 1518. I will be happy to answer any questions that the members of the Committee may have.

Hawaii State Towing Association

1040 Makepono Street
Honolulu, HI 96819
Phone: (808) 847-7811
Fax: (808) 842-7605

February 2, 2009

Representative Joseph M. Souki, Chair
Representative Karen Leinani Awana, Vice Chair
Committee on Transportation
State Capitol, Room 309
Honolulu, HI 96813

RE: HB1518, Relating to Motor Vehicles

Dear Chair Souki, Vice Chair Awana and Members of the Committee:

As most companies pass on the state General Excise Tax we were advised by the State Office of Consumer Protection we could not, as our fees are set by statute and the statute does not include the General Excise Tax. It should be noted that the statute does not specifically say we can't either. **This is the departments 'interpretation.'** As a small business, we do not have the resources to fight state government and the risk to start adding it to the bill is too much for our small business.

All we are asking for is equity in this very tough business climate and do what every business does—add the General Excise to our fees.

Mahalo for your favorable consideration of this request.

Respectfully Submitted,

Jan Wakaya
President

Representative Joseph M. Souki, Chair
Representative Karen Leinani Awana, Vice Chair
Committee on Transportation
State Capitol, Room 309
Honolulu, HI 96813

RE: HB1518, Relating to Motor Vehicles

POSITION: In favor of passage

Dear Chair Souki, Vice Chair Awana and Members of the Committee:

We are before the legislature this year to clean up language that would clearly establish the ability for the tow industry to conduct our business in similar manner as many other businesses in Hawaii do.

An ambiguous interpretation has prevented us from collecting the General Excise Tax **in addition** to tow fees as posted in the Hawaii Revised Statutes.

While we have always considered that we should be able to add and collect the General Excise Tax, we have been reluctant to challenge or test the interpretation due to the anticipated prohibitive costs to our small businesses.

Thank you for your favorable consideration in passage of this bill.

Barnaby Robinson
President
Waialae Chevron and Tow Service