
A BILL FOR AN ACT

RELATING TO TOWING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that section 290-11,
2 Hawaii Revised Statutes, was enacted in 1973 to address the
3 towing of vehicles left unattended on private and public
4 property. Since then, section 290-11, Hawaii Revised Statutes,
5 has been amended twenty-one times. The amendments have changed
6 the amount of allowable fees, signage and notification
7 requirements, and other important issues related to towing
8 vehicles.

9 In 2007, the legislature took notice of complaints
10 regarding "unhooking" fees, and Act 269, Session Laws of Hawaii
11 2007, eliminated such fees "when an owner appears on the scene
12 to recover a vehicle".

13 The legislature further finds that section 290-11, Hawaii
14 Revised Statutes, uses multiple terms for "owner", resulting in
15 confusion as to who may recover a vehicle that is hooked up or
16 has been towed to a tow company's yard.



1 The purpose of this Act is to provide a definition section
2 to section 290-11, Hawaii Revised Statutes, to address questions
3 of vehicle ownership and normalize the usage of the term
4 "vehicle owner" in order to enable permissive users and renters
5 to avail themselves of the protections envisioned by the
6 legislature when Act 269, Session Laws of Hawaii 2007, became
7 enacted.

8 SECTION 2. Section 290-11, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§290-11 Vehicles left unattended on private and public
11 property; sale or disposition of abandoned vehicles. (a) For
12 the purposes of this section:

13 "Hooked up" means attached to the tow truck and securely
14 fastened by means of clamps, ropes, straps, cargo nets, or other
15 suitable mechanical device to prevent the vehicle from dropping
16 off of the tow truck or from shifting in any manner.

17 "Scene" refers to the following from which a vehicle is
18 being towed:

- 19 (1) A parking stall on a public street or in a public or
20 private parking lot;
- 21 (2) A particular spot on any property; or



1 (3) A spot curbside on a street in the case of a vehicle
2 blocking a driveway, including partially;

3 For purposes of a tow truck hooking up a vehicle, the "scene"
4 includes a radius of fifty feet around the vehicle being towed
5 unless the vehicle is hooked up on a public street under
6 paragraph (1) or curbside under paragraph (3).

7 "Vehicle owner" means the legal or registered owner of the
8 vehicle, a person renting the vehicle pursuant to chapter 437D,
9 or any person in lawful possession of the key or remote keyless
10 ignition system to the vehicle.

11 [~~(a)~~] (b) Notwithstanding any other provision of this
12 chapter, any vehicle left unattended on private or public
13 property without authorization of the owner or occupant of the
14 property, may be towed away at the expense of the [~~owner of the~~
15 ~~vehicle,~~] vehicle owner, by order of the owner, occupant, or
16 person in charge of the property; provided that there is posted
17 a notice prohibiting vehicles to park on the property without
18 authorization. The notice shall state that the vehicle will be
19 towed and held at the expense of the vehicle owner, as well as
20 the name, address, and a telephone number of the facility where
21 the vehicle will be towed and held. The notice shall be of such



1 size and be placed in a location that is clearly visible to the
2 driver of a vehicle approaching any individual marked or
3 unmarked parking space; provided that where an entire parking
4 lot consists of restricted parking spaces, placement of the
5 notice at each entrance of the parking lot shall suffice.

6 ~~[(b)]~~ (c) Towing companies engaged by the owner, occupant,
7 or person in charge of the property shall:

8 (1) Charge not more than \$65 for a tow, or \$75 for a tow
9 using a dolly, plus a mileage charge of \$7.50 per mile
10 towed and \$25 per day or fraction thereof for storage
11 for the first seven days and \$20 per day thereafter.
12 In the case of a difficult hookup, meaning an above or
13 below ground hookup in a multilevel facility, a towing
14 surcharge of \$30 shall be applicable. When the tow
15 occurs between the hours of six o'clock p.m. and six
16 o'clock a.m., from Monday through Thursday and from
17 six o'clock p.m. Friday to six o'clock a.m. Monday,
18 the towing company shall be entitled to an overtime
19 charge of \$15. If the vehicle is in the process of
20 being hooked up or is hooked up to the tow truck and
21 the vehicle owner appears on the scene, the towing



1 company shall [~~unhook~~] release the vehicle to the
2 vehicle owner and shall not charge any fee to the
3 vehicle owner [~~of the vehicle. In the case of a~~
4 ~~difficult hookup, meaning an above or below ground~~
5 ~~hookup in a multilevel facility, a towing surcharge of~~
6 ~~\$30 shall be applicable~~]; provided that if a vehicle
7 is hooked up, outside of the scene as defined in this
8 section, and the tow operator is in motion, there
9 shall be no obligation on the part of the towing
10 company to drop the tow and release the vehicle to the
11 vehicle owner; provided further that a date and time
12 stamped photograph of the hooked up vehicle at the
13 scene, showing the license plate of the vehicle, shall
14 be evidence that the vehicle is hooked up as defined
15 in this section;

16 (2) Determine the name of the [~~legal owner and the~~
17 ~~registered owner of the~~] vehicle owner from the
18 department of transportation or the county department
19 of finance. The [~~legal owner and the registered~~]
20 vehicle owner shall be notified in writing at the
21 address on record with the department of



1 transportation or with the county department of
2 finance by registered or certified mail of the
3 location of the vehicle, together with a description
4 of the vehicle, within a reasonable period not to
5 exceed fifteen days following the tow. The notice
6 shall state:

7 (A) The maximum towing charges and fees allowed by
8 law;

9 (B) The telephone number of the consumer information
10 service of the department of commerce and
11 consumer affairs; and

12 (C) That if the vehicle is not recovered within
13 thirty days after the mailing of the notice, the
14 vehicle shall be deemed abandoned and will be
15 sold or disposed of as junk.

16 Where the [~~owners have~~] vehicle owner has not been so
17 notified, then the vehicle owner may recover the
18 [~~owner's car~~] vehicle from the towing company without
19 paying any tow or storage fees; provided that the
20 notice need not be sent to a legal or registered owner
21 or any person with an unrecorded interest in the



1 vehicle whose name or address cannot be determined.
2 Absent evidence to the contrary, a notice shall be
3 deemed received by the [~~legal or registered~~] vehicle
4 owner five days after the mailing. [A] Any person,
5 including but not limited to the vehicle owner's or
6 driver's insurer, who has been charged in excess of
7 the charges permitted under this section may sue for
8 damages sustained and, if the judgment is for the
9 plaintiff, the court shall award the plaintiff a sum
10 not to exceed the amount of the damages and reasonable
11 attorney's fees together with the cost of suit;

12 (3) Provide, when a vehicle is recovered by the vehicle
13 owner before written notice is sent by registered or
14 certified mail, the vehicle owner with a receipt
15 stating:

16 (A) The maximum towing charges and fees allowed by
17 law; and

18 (B) The telephone number of the consumer information
19 service of the department of commerce and
20 consumer affairs; and



1 (4) Accommodate payment by the vehicle owner for charges
2 under paragraph (1) by cash and by either credit card
3 or automated teller machine located on the premises.

4 [~~(e)~~] (d) When a vehicle is not recovered within thirty
5 days after the mailing of the notice, it shall be deemed
6 abandoned and the owner of the towing company, or the owner of
7 the towing company's authorized representative, after one public
8 advertisement in a newspaper of general circulation in the
9 State, may negotiate a sale of the vehicle or dispose of it as
10 junk.

11 [~~(d)~~] (e) The authorized seller of the vehicle shall be
12 entitled to the proceeds of the sale to the extent that
13 compensation is due the authorized seller for services rendered
14 in respect to the vehicle, including reasonable and customary
15 charges for towing, handling, storage, and the cost of the
16 notices and advertising required by this part. Any remaining
17 balance shall be forwarded to the [~~legal or registered~~] vehicle
18 owner [~~of the vehicle~~] if the [~~legal or registered~~] vehicle
19 owner can be found. If the [~~legal or registered~~] vehicle owner
20 cannot be found, the balance shall be deposited with the
21 director of finance of the State and shall be paid out to the



1 ~~[legal or registered]~~ vehicle owner ~~[of the vehicle]~~ if a proper
2 claim is filed therefor within one year from the execution of
3 the sales agreement. If no claim is made within the year
4 allowed, the money shall become a state realization.

5 ~~[(e)]~~ (f) The transfer of title and interest by sale under
6 this part is a transfer by operation of law; provided that if
7 the certificate of ownership or registration is unavailable, a
8 bill of sale executed by an authorized seller is satisfactory
9 evidence authorizing the transfer of the title or interest.

10 ~~[(f)]~~ (g) Notwithstanding any law or ordinance to the
11 contrary, including subsection ~~[(g)]~~, (h) and section 46-20.5,
12 any towing company engaged in towing in a county with a
13 population greater than five hundred thousand shall offer towing
14 services to consumers twenty-four hours per day every day of the
15 week, which services shall include the release of vehicles kept
16 in storage to a registered owner, legal owner, insurer, or a
17 designated representative.

18 ~~[(g)]~~ (h) This section shall not apply to a county that
19 has adopted ordinances regulating towing operations."

20 SECTION 3. Section 291C-165.5, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



1 "(b) The towing company shall determine the name of the
2 lien holder and the registered owner of the vehicle from the
3 department of transportation or the county department of
4 finance. The lien holder and the registered owner shall be
5 notified by the towing company in writing at the address on
6 record with the department of transportation or with the county
7 department of finance by registered or certified mail of the
8 location of the vehicle, together with a description of the
9 vehicle, within a reasonable period not to exceed twenty days
10 following the tow. The notice shall state:

- 11 (1) The maximum towing charges and fees allowed by law;
12 (2) The telephone number of the county finance department
13 that arranged for or authorized the tow; and
14 (3) That if the vehicle is not recovered within thirty
15 days after the mailing of the notice, the vehicle
16 shall be deemed abandoned and will be sold or disposed
17 of as junk.

18 Any towing company engaged in towing pursuant to this section
19 shall comply with the requirements of section 291C-135. When
20 the vehicle is recovered after the tow by the registered owner
21 or lien holder, the party recovering the vehicle shall pay the



1 tow and storage charges which shall not exceed the charges as
2 provided by section [~~290-11(b)~~] 290-11(c) or the rates agreed
3 upon with the respective counties, whichever is lower, except
4 that tow operators may charge additional reasonable amounts for
5 excavating vehicles from off-road locations; provided that if
6 the notice required by this section was not sent within twenty
7 days after the tow, neither the registered owner nor the lien
8 holder shall be required to pay the tow and storage charges. No
9 notice shall be sent to a legal or registered owner or any
10 person with any unrecorded interest in the vehicle whose name or
11 address cannot be determined. A person, including but not
12 limited to the owner's or driver's insurer, who has been charged
13 in excess of the charges permitted under this section may sue
14 for damages sustained, and, if the judgment is for the
15 plaintiff, the court shall award the plaintiff a sum not to
16 exceed the amount of these damages and reasonable attorney's
17 fees together with the cost of the suit."

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

20 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Towing; Vehicle Owner; Hooked Up; Scene; Towing Company

Description:

Clarifies when a towing company must release a vehicle to its owner, if the owner arrives on the scene after the vehicle has been hooked up to the tow truck. Includes renters and authorized borrowers of vehicles in existing consumer protection requirements for vehicle release, notification, and compensation. (SB16 HD1)

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