

February 27, 2016

Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair
Committee on Judiciary and Labor
State Capitol, Room, 016
Honolulu, HI 96813

Re: **SB 2857, Relating to Towing**

Hearing Date: Monday, February 29, 2016

Hearing Place: Conference Room 016 State Capitol 415 South Beretania Street

Dear Chairs Keith-Agaran, Vice Chair Shimabukuro and Members of the Committee.

Thank you for allowing me to present testimony regarding SB 2857.

My name is Brian Kunishige, and I am the President of Kuni's Enterprises, Inc., (KUNI'S), a full service towing and recovery operation, that provides both City tow sub-contract services as well as private tow services across most of Oahu.

For the definition of "Scene" this bill seeks to adopt a 50 ft. radius of the location of the hook up. Fifty feet is approximately 2 ½ car lengths. The bill is encouraging a motorist who has already parked unlawfully, and was cited by HPD, to run into the active traffic lanes to chase after the tow truck for 50 ft. to retrieve his or her vehicle. Instead of trying to determine distance from where the vehicle was parked, a better and more accurate and a more sensible measure of the "Scene" would be the stall in which the vehicle was parked. Once the vehicle is removed in its entirety from the stall in which it was parked, it will be considered to have left the "Scene". At that point, we will have no motorist chasing the vehicle down in traffic and no safety or traffic hazard is being created.

"Hook up" should be described as when the vehicle to be towed is securely attached to the tow vehicle and is safely able to be moved without falling off the tow truck.

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“Vehicle Owner” should be defined as the legal owner, registered owner, lien holder, renter or authorized driver on a rental agreement. If the Vehicle Owner is unable to pick-up the vehicle from the tow yard, a notarized letter, power of attorney or a letter on hospital letter head signed by a doctor indicating the vehicle owner is incapacitated and authorizing some other than the legal or registered owner to pick-up the vehicle may be acceptable.

The proposed amendment of “Vehicle Owner” to any person in possession of the key or remote keyless entry ignition system to the vehicle, creates multiple problems with liability in releasing a vehicle to any person with the key. This definition allows for persons not related to or with no association with the actual owner, to pick-up the vehicle. Moreover, every time the definition of Vehicle Owner is expanded, there is a potential liability created for the unlawful release of a vehicle. If the State of Hawaii will accept liability and hold the tow companies harmless for releasing vehicles, we will need that in the bill also or a written release of liability. Numerous times a **FRIEND** of the driver attempts to pick up a vehicle. The friend may not have any documentation relating them to the vehicle, the vehicle owner or the vehicle lien holder. If we release that vehicle and later that afternoon the registered owner comes to pick up the vehicle that he has title to, registration for, a safety check and an insurance card for, we are liable to that owner under bailment law for that vehicle. Further amendment to this provision or the deletion or a hold harmless clause may be appropriate.

Kuni’s objects to SB 2857 in its present form and respectfully requests that this legislation be amended or be held in committee.

Sincerely,

Brian S. Kunishige
President