

JAN 17 2020

A BILL FOR AN ACT

RELATING TO MOTOR VEHICLES.

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

1 SECTION 1. Chapter 290, Hawaii Revised Statutes, is
2 amended by adding a new section to part III to be appropriately
3 designated and to read as follows:
4 "§290- Towing of disabled vehicles; written disclosure;
5 permissible charges. (a) In the event that a motor vehicle is
6 disabled, either on private or public property, and cannot be
7 driven under its own power due to an accident or other
8 circumstance, and the vehicle owner or operator is present and
9 conscious at the time of the tow, the tow operator shall provide
10 the motor vehicle owner or operator a written and itemized
11 disclosure, signed and dated by the tow operator present at the
12 location of the disabled vehicle, which shall disclose all costs
13 for services that are to be performed prior to the motor vehicle
14 being attached to the tow truck. The written disclosure shall
15 further provide the following information:
16 (1) Name, physical address, location of the storage lot,
17 and telephone number of the towing company;



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- 1 (2) Motor carrier permit or certificate number of the
- 2 towing company, if applicable;
- 3 (3) License plate of tow truck performing the tow;
- 4 (4) Location of the destination of the disabled vehicle
- 5 being towed;
- 6 (5) Written notice advising the owner or operator of the
- 7 motor vehicle being towed that the tow truck is not
- 8 operating as a police-dispatched tow;
- 9 (6) First and last name of the tow truck operator, and if
- 10 different, the first and last name of the person from
- 11 the towing company giving the written disclosure;
- 12 (7) Descriptions and costs for all services, including but
- 13 not limited to charges for labor, specialty equipment,
- 14 mileage from the location of the disabled vehicle to
- 15 the destination, accident scene clean-up, and storage
- 16 fees expressed as a twenty-four-hour rate; and
- 17 (8) The difference between rates and costs being charged
- 18 by the towing company compared to:
- 19 (A) The contract rate for police-dispatched tows for
- 20 the applicable county; or



1 (B) In the absence of a contract rate for police-
2 dispatched tows in the applicable county, the
3 charges identified in section 290-11.

4 (b) The tow operator or tow company owner's signature on
5 the written disclosure provided to the motor vehicle owner or
6 operator pursuant to subsection (a) shall verify the total costs
7 for all services itemized in the written disclosure. In the
8 event the motor vehicle owner or operator does not agree to the
9 charges listed in the written disclosure prior to the motor
10 vehicle being attached to the tow truck, or the motor vehicle
11 owner or operator is incapacitated or unable to consciously
12 agree to the terms and charges in the written disclosure, the
13 charges for any tow and resulting storage fees shall not exceed
14 the lower of the contract rate for police-dispatched tows in the
15 applicable county, or the charges identified in section 290-11.

16 (c) This section shall not apply to towing companies
17 operating under a contract with a police department or an
18 automobile club. For purposes of this subsection, "automobile
19 club" means a legal entity that, in consideration of dues,
20 assessments, or periodic payments of money, promises its members
21 or subscribers to assist in matters relating to motor travel or



1 the operation, use, or maintenance of a motor vehicle by
2 supplying services that may include, but are not limited to
3 towing services and emergency road service."

4 SECTION 2. Chapter 290, Hawaii Revised Statutes, is
5 amended by amending its title to read as follows:

6 "CHAPTER 290

7 ABANDONED OR DISABLED VEHICLES"

8 SECTION 3. Section 291C-165.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§291C-165.5 Motor vehicle towing and storage;
11 settlement[-]; disabled vehicles. (a) Notwithstanding any
12 other provision of this chapter, any vehicle identified for
13 removal pursuant to any county ordinance ordering removal of
14 motor vehicles by any county police department for traffic
15 violations, or any vehicle involved in a motor vehicle accident
16 that cannot be moved under its own power or is otherwise
17 disabled, including a vehicle which constitutes an obstruction
18 or hazard to traffic, may be towed away at the expense of the
19 registered owner of the vehicle, as provided by this section.

20 (b) The towing company shall determine the name of the
21 lien holder and the registered owner of the vehicle from the



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

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

16 Any towing company engaged in towing pursuant to this section
17 shall comply with the requirements of section 291C-135. When
18 the vehicle is recovered after the tow by the registered owner
19 or lien holder, the party recovering the vehicle shall pay the
20 tow and storage charges which shall not exceed the charges as
21 provided by section 290-11(b) or the rates agreed upon with the



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

16 (c) When a vehicle is recovered by the owner or lien
17 holder before written notice is sent by registered or certified
18 mail, the towing company shall provide the owner or lien holder
19 with a receipt stating the maximum towing charges and fees
20 allowed by law and the telephone number of the county finance
21 department that arranged for or authorized the tow.



1 (d) When a vehicle is not recovered within thirty days
2 after the mailing of the notice, it shall be deemed abandoned
3 and the owner of the towing company, or the owner of the towing
4 company's authorized representative, after one statewide public
5 notice as required in section 1-28.5, may negotiate a sale of
6 the vehicle or dispose of it as junk.

7 (e) The authorized seller of the vehicle shall be entitled
8 to the proceeds of the sale to the extent that compensation is
9 due the authorized seller for services rendered in respect to
10 the vehicle, including reasonable and customary charges for
11 towing, handling, storage, and the cost of the notices and
12 advertising required by this part. Any remaining balance shall
13 be forwarded to the registered owner or lien holder of the
14 vehicle if the registered owner or lien holder is found. If the
15 registered owner or lien holder cannot be found, the balance
16 shall be deposited with the director of finance of the State and
17 shall be paid out to the registered owner or lien holder of the
18 vehicle if a proper claim is filed therefor within one year from
19 the execution of the sales agreement. The lien holder shall
20 have first priority to the funds to the extent of the lien



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1 holder's claim. If no claim is made within the year allowed,
2 the money shall escheat to the State.

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

8 (g) In the event that a motor vehicle is involved in an
9 accident and cannot be moved under its own power or is otherwise
10 disabled and constitutes an obstruction or hazard to traffic,
11 and the vehicle has not been ordered to be towed by the
12 applicable county police department, the towing of such vehicle
13 and the towing and storage expenses shall be subject to the
14 provisions of section 290- .

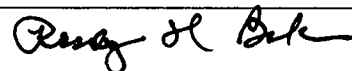
15 [~~g~~] (h) This section shall not apply to a county that
16 has adopted ordinances regulating towing operations."

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

19 SECTION 5. This Act shall take effect on July 1, 2020.

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INTRODUCED BY:



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Report Title:

Motor Vehicles; Disabled Vehicles; Towing Expenses; Written Disclosure; Permissible Charges

Description:

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.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

