
A BILL FOR AN ACT

RELATING TO MOTOR VEHICLES.

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

1 SECTION 1. The legislature finds that too many motor
2 vehicle drivers are threats to public safety and create risks of
3 injury or death. The legislature believes that impounding
4 vehicles when drivers commit certain traffic violations will
5 greatly contribute to safer roads.

6 Accordingly, the purpose of this Act is to:

- 7 (1) Authorize the impoundment of a motor vehicle when the
8 driver is arrested or cited, if the arresting or
9 citing officer has a valid public safety concern;
- 10 (2) Provide that if a law enforcement officer lawfully
11 stops a motor vehicle and the operator is cited for
12 driving without a valid license, the officer shall not
13 permit the operator to resume the use of the motor
14 vehicle;
- 15 (3) Require the motor vehicle to be moved by a licensed
16 driver or towed at the owner's expense;



1 (4) Provide that the cited operator is responsible for
2 arranging the operator's transportation away from the
3 scene of the stop.

4 (5) Authorize the impoundment of a motor vehicle when the
5 driver is convicted of, or judgment is found in favor
6 of the State for, certain traffic violations or
7 repeated traffic violations.

8 SECTION 2. Chapter 286, Hawaii Revised Statutes, is
9 amended by adding two new sections to be appropriately
10 designated and to read as follows:

11 "§286- Impoundment of motor vehicles involved in certain
12 traffic violations; exceptions. (a) Except as otherwise
13 provided in this section, in any court case in which a person is
14 convicted of, or which judgment is found for the State
15 regarding, any alleged traffic violation listed in section
16 291C- (a), the court may order the impoundment of the motor
17 vehicle for not more than thirty days at the registered owner's
18 expense.

19 (b) If the person is convicted of violating:

20 (1) Section 291E-61, by operating a vehicle under the
21 influence of an intoxicant;



- 1 (2) Section 291E-61.5, by habitually operating a vehicle
2 under the influence of an intoxicant;
- 3 (3) Section 291E-62, by operating a vehicle after license
4 and privilege has been suspended or revoked for
5 operating a vehicle under the influence of an
6 intoxicant; or
- 7 (4) Section 291E-64, by operating a vehicle after
8 consuming a measurable amount of alcohol as a person
9 under the under the age of twenty-one,
10 and the person has two or more prior convictions in the previous
11 five years for one or more of the traffic violations listed in
12 this subsection, the court may order the impoundment of the
13 motor vehicle for not more than ninety days at the registered
14 owner's expense.
- 15 (c) In determining whether to order an impoundment
16 pursuant to this section, the court shall consider:
- 17 (1) Public safety as the top priority;
- 18 (2) If a motor vehicle was impounded pursuant to section
19 291C- , whether further impoundment is necessary;
- 20 (3) If a third party is the registered owner of the
21 vehicle, whether:



1 (A) The person who committed the traffic violation
2 operated the vehicle without the third party's
3 permission; and

4 (B) The person who committed the traffic violation
5 would likely continue to have access to the
6 vehicle; and

7 (4) Whether the interests of justice would be better
8 served by not impounding the vehicle.

9 (d) Notwithstanding subsections (a) through (c), if the
10 person has had multiple convictions for driving without a valid
11 motor vehicle insurance policy within a five-year period from
12 any prior offense, section 431:10C-117(a) (6) shall apply.

13 **§286- Unauthorized operators; use of motor vehicle**

14 **prohibited.** (a) If a law enforcement officer lawfully stops a
15 motor vehicle and cites the person operating the motor vehicle
16 for allegedly violating section 286-102, 286-122, 286-130,
17 286-131, 286-132, 286-133, or 286-134, the officer shall not
18 permit the operator to resume the use of the motor vehicle.

19 (b) The motor vehicle may be removed from the scene of the
20 stop by:



1 (1) The registered owner of the motor vehicle, if the
2 registered owner possesses a valid driver's license;

3 or

4 (2) Any other individual who possesses a valid driver's
5 license, if the individual has the explicit permission
6 of the registered owner of the motor vehicle;

7 provided that the individual taking possession of the motor
8 vehicle is able to legally park or store the motor vehicle.

9 (c) If an individual described in subsection (b) cannot
10 remove the motor vehicle within a reasonable time, the law
11 enforcement officer shall arrange for the motor vehicle to be
12 towed, at the expense of the motor vehicle's registered owner,
13 to:

14 (1) The address of the motor vehicle's registered owner;
15 or

16 (2) Any location designated by the county in which the
17 stop occurred.

18 (d) The cited operator shall be responsible for arranging
19 the cited operator's transportation from the scene of the stop,
20 which may include the use of public transportation, rideshare or
21 taxi services, or riding as a passenger in a motor vehicle



1 operated by a person possessing a valid driver's license. Any
2 transportation expenses incurred shall be the responsibility of
3 the cited operator. The cited operator shall inform the law
4 enforcement officer of the cited operator's transportation
5 arrangements."

6 SECTION 3. Chapter 291C, Hawaii Revised Statutes, is
7 amended by adding a new section to part XV to be appropriately
8 designated and to read as follows:

9 **"§291C- Motor vehicle towing and storage; violations.**

10 (a) Except as provided in this section, a police officer who
11 cites or arrests the operator of a motor vehicle for a traffic
12 violation may have the motor vehicle towed to a private tow yard
13 and impounded at the registered owner's expense pursuant to
14 section 291C-165.5(a) if the officer has a valid public safety
15 concern under subsection (b) and the operator is alleged to have
16 violated:

- 17 (1) Section 286-102, by driving without a license;
18 (2) Section 286-132, by driving while the person's license
19 is suspended or revoked;
20 (3) Section 291-2, by recklessly driving a vehicle;



- 1 (4) Section 291C-12, by being involved in and failing to
2 stop at, or return to the scene of, a collision
3 involving death or serious bodily injury;
- 4 (5) Section 291C-12.5, by being involved in and failing to
5 stop at, or return to a scene of, a collision
6 involving substantial bodily injury;
- 7 (6) Section 291C-12.6, by being involved in and failing to
8 stop at, or return to a scene of, a collision
9 involving bodily injury;
- 10 (7) Section 291C-13, by being involved in and failing to
11 stop at, or return to a scene of, a collision
12 involving damage to vehicle or property;
- 13 (8) Section 291C-105, by excessively speeding; provided
14 that the operator was previously convicted of
15 excessive speeding within _____ years of the current
16 alleged violation;
- 17 (9) Section 291E-61, by operating a vehicle under the
18 influence of an intoxicant;
- 19 (10) Section 291E-61.5, by habitually operating a vehicle
20 under the influence of an intoxicant;



1 (11) Section 291E-62, by operating a vehicle after the
2 person's license and privilege to operate a vehicle
3 has been suspended or revoked for operating a vehicle
4 under the influence of an intoxicant;

5 (12) Section 291E-64, by operating a vehicle after
6 consuming a measurable amount of alcohol as a person
7 under the under the age of twenty-one;

8 (13) Section 431:10C-104, by operating a motor vehicle
9 without a valid motor vehicle insurance policy; or

10 (14) Any jailable traffic violation not listed in this
11 subsection; provided that the operator was previously
12 convicted of not fewer than _____ jailable traffic
13 violations within _____ years of the current alleged
14 violation.

15 (b) A police officer has a valid public safety concern for
16 the purposes of subsection (a) if the officer has reason to
17 believe that, after the operator is cited or released from
18 custody, the operator is likely to attempt to operate the motor
19 vehicle:

20 (1) Under the influence of an intoxicant; or



1 (2) In a manner that places others at significant risk of
2 injury or death.

3 (c) Notwithstanding subsections (a) and (b), a motor
4 vehicle shall not be towed or impounded pursuant to this section
5 if:

6 (1) The registered owner or a passenger present in the
7 vehicle when the operator is arrested, or when a
8 summons or citation is issued:

9 (A) Has a valid driver's license;

10 (B) Is willing legally able to operate the motor
11 vehicle; and

12 (C) Is not cited or arrested operator; or

13 (2) The motor vehicle is legally parked at a time and
14 place where the likelihood of the vehicle being
15 subject to theft or vandalism is remote and traffic or
16 public safety is not impeded.

17 (d) No county police department or police officer shall be
18 responsible for protecting a motor vehicle left on any public
19 way after the motor vehicle's operator has been arrested for a
20 violation listed in subsection (a).



1 (e) For the purposes of this section, "jailable traffic
2 violation" means any traffic crime or violation under this title
3 or other applicable law that is punishable by incarceration."

4 SECTION 4. Section 291C-165.5, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§291C-165.5 Motor vehicle towing and storage; settlement;**
7 **disabled vehicles.** (a) Notwithstanding any other provision of
8 this chapter, any vehicle identified for removal pursuant to any
9 state law or county ordinance ordering or authorizing the
10 removal of motor vehicles by any county police department for
11 traffic violations, or any vehicle involved in a motor vehicle
12 accident that cannot be moved under its own power or is
13 otherwise disabled, including a vehicle [~~which~~] that constitutes
14 an obstruction or hazard to traffic, may be towed away at the
15 expense of the registered owner of the vehicle, as provided by
16 this section.

17 (b) The towing company shall determine the name of the
18 lien holder and the last registered owner of the vehicle from
19 the department of transportation or the county department of
20 finance. The lien holder and the registered owner shall be
21 notified by the towing company in writing at the address on



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

6 (1) The maximum towing charges and fees allowed by law;

7 (2) The telephone number of the county finance department
8 that arranged for or authorized the tow; ~~and~~

9 (3) That unless a longer term of impoundment is required
10 by court order, if the vehicle is not recovered within
11 thirty days after the mailing of the notice, the
12 vehicle shall be deemed abandoned and will be sold or
13 disposed of as junk~~[-]~~; and

14 (4) That the lien holder or registered owner may:

15 (A) Recover possession of the vehicle by paying the
16 towing and other fees allowed by law and file a
17 lawsuit for damages with any court of competent
18 jurisdiction as allowed by law; and

19 (B) Demand an administrative hearing, before or after
20 the person has recovered possession of the
21 vehicle pursuant to subparagraph (A), to



1 determine whether there was a sufficient factual
2 and legal basis for removing the vehicle.

3 Any towing company engaged in towing pursuant to this section
4 shall comply with the requirements of section 291C-135. When
5 the vehicle is recovered after the tow by the last registered
6 owner or lien holder, the party recovering the vehicle shall pay
7 the tow and storage charges which shall not exceed the charges
8 as provided by section 290-11(b) or the rates agreed upon with
9 the respective counties, whichever is lower, except that tow
10 operators may charge additional reasonable amounts for
11 excavating vehicles from off-road locations and any additional
12 amount allowed by section 290-11(b) for overturned vehicles;
13 provided that if the notice required by this section was not
14 sent within twenty days after the tow, neither the last
15 registered owner nor the lien holder shall be required to pay
16 the tow and storage charges. No notice shall be sent to a legal
17 or last registered owner or any person with any unrecorded
18 interest in the vehicle whose name or address cannot be
19 determined.

20 (c) Any person who violates any provision of this section
21 shall be deemed to have:



1 (1) Engaged in an unfair or deceptive act or practice in
2 the conduct of any trade or commerce within the
3 meaning of section 480-2 and subject to the penalties
4 and remedies of chapter 480; and

5 (2) Furnished services without a license within the
6 meaning of section 487-13 and subject to penalties and
7 remedies under chapter 487.

8 (d) The lien holder and the registered owner shall have
9 ten days after receipt of the notice provided pursuant to
10 subsection (b) to request in writing, from the county police
11 department that caused the vehicle to be removed, an
12 administrative hearing pursuant to chapter 91. The
13 administrative hearing shall be conducted for the sole purpose
14 of allowing the lien holder or registered owner of an impounded
15 vehicle to contest the basis given for the impoundment of the
16 vehicle. The hearing shall be held within five working days of
17 the county police department's receipt of the written request.

18 [~~e~~] (e) When a vehicle is recovered by the owner or lien
19 holder before written notice is sent by registered or certified
20 mail, the towing company shall provide the owner or lien holder
21 with a receipt stating the maximum towing charges and fees



1 allowed by law and the telephone number of the county finance
2 department that arranged for or authorized the tow.

3 [~~(d)~~—When] (f) Unless a longer term of impoundment is
4 required by court order, if a vehicle is not recovered within
5 thirty 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
8 statewide public notice as required in section 1-28.5, may
9 negotiate a sale of the vehicle or dispose of it as junk.

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



1 therefor within one year from the execution of the sales
2 agreement. The lien holder shall have first priority to the
3 funds to the extent of the lien holder's claim. If no claim is
4 made within the year allowed, the money shall escheat to the
5 State.

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

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

18 ~~[(h)]~~ (j) This section shall not apply to a county that
19 has adopted ordinances regulating towing operations. This
20 section shall not apply to automobile clubs or towing companies
21 operating under a contract with an automobile club, insurer, or



1 motor vehicle manufacturer. For the purposes of this
2 subsection, "automobile club" means a legal entity that, in
3 consideration of dues, assessments, or periodic payments of
4 money, promises to assist its members or subscribers in matters
5 relating to motor travel or the operation, use, or maintenance
6 of a motor vehicle by supplying services that may include but
7 are not limited to towing services and emergency road service."

8 SECTION 5. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

11 SECTION 6. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 7. This Act shall take effect upon its approval.



Report Title:

Motor Vehicles; Drivers; Unlicensed Drivers; Stops; Citations
Traffic; Public Safety; Impoundment

Description:

Authorizes the impoundment of motor vehicles when certain traffic violations have been alleged or committed. Provides that if a law enforcement officer lawfully stops a motor vehicle and the operator is cited for driving without a valid license, the officer shall not permit the operator to resume the use of the motor vehicle. Requires the motor vehicle to be moved by a licensed driver or towed at the owner's expense. Provides that the cited operator is responsible for arranging the operator's transportation from the scene of the stop. (SD1)

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