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**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
Senate Committee on Judiciary**

**Tuesday, June 30, 2020  
9:46 am  
State Capitol, Conference Room 016**

**On the following measure:  
H.B. 2162, H.D. 2, RELATING TO TOWING**

**WRITTEN TESTIMONY ONLY**

Chair Rhoads and Members of the Committee:

My name is Stephen Levins, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection (OCP). The Department supports this bill.

The purpose of this bill is to: (1) clarify the fees tow companies may charge; (2) clarify the duties of tow companies when vehicle owners arrive on the scene while their vehicles are in the process of being hooked up; (3) require tow and storage companies to accept credit cards; (4) subject violators of the towing statute to the penalties and remedies under the State's unfair or deceptive acts or practices law; and (5) add definitions for clarity.

H.D. 2 addresses several deficiencies in the current towing law that hinder the OCP's ability to protect consumers. In pertinent part, H.D. 2 will improve the current

towing laws by: adding definitions that will address current ambiguities; mandating the acceptance of credit cards; making the penalty provisions consistent with other consumer protection statutes; and removing logistical barriers emanating from a strict interpretation of the term “vehicle owner.”

### **Definitions**

First, the bill adds definitions to HRS section 290-11 to remove any uncertainty over how vehicles are towed. The definition of a “vehicle parked without authorization” addresses current ambiguities regarding when a vehicle is authorized to park in a prepaid stall. Consumers have reported to the OCP that their vehicles were towed merely because they placed their proof of payment in a different location on the windshield than the one required by the parking location, such as placing the receipt on the passenger’s side dashboard instead of on the driver’s side. This bill removes this unreasonable restriction by allowing the receipt, placard, or permit to be placed in any visible location.

Second, the bill removes ambiguities from what constitutes the “scene.” Defining “scene,” or the location of the vehicle when it is being hooked up, clarifies the obligation of the tow company to release a vehicle pursuant to subsection (b)(2) on page 4, lines 9 to 18. Heated exchanges between vehicle operators and tow companies are not unusual when the tow company refuses to drop the vehicle, even when it was moved only a few feet from the parking space. In these instances, tow companies have unreasonably claimed that the vehicle is no longer at the “scene,” and therefore, the vehicle is no longer eligible to be dropped. By establishing an objective standard as to what constitutes the “scene,” this enhanced certainty will reduce unnecessary conflict.

Third, the bill clarifies the definition of a “vehicle owner.” Retrieving a vehicle from a tow company is often the most stressful part of a tow because of pointless barriers that tow companies place on consumers who wish to recover a towed vehicle. The most problematic example is where the tow company allows only the legally registered vehicle owner to recover the vehicle. This restriction prevents a child from recovering a parent’s car that he or she has borrowed, as well as a lessee from recovering a car rental’s vehicle. To address these recurring issues, the definition of

“vehicle owner” in this bill includes anyone having permission of the registered owner to operate the vehicle, including car rental lessees or family members possessing the vehicle key or remote keyless ignition system. This expanded definition will allow authorized operators of towed vehicles to retrieve those vehicles from a tow yard or to instruct a tow truck operator to drop the vehicle at the scene.

For clarification, the Department requests including in the definition of “vehicle owner” the insurance company that insures the vehicle and any person authorized to operate the vehicle pursuant any other law, in addition to HRS chapter 437D on page 10, lines 3 to 8: “Vehicle owner” means any person, other than the towing company, who has possession of or any other interest in the vehicle, including, but not limited to, the legal or last registered owner of the vehicle, the insurance company insuring the vehicle, the person renting the vehicle pursuant to chapter 437D or any other law authorizing a person to operate the vehicle, or any person in possession of the key or remote keyless ignition system device to the vehicle.

The definition of “vehicle owner” includes the last registered of the vehicle. For consistency, the Department requests the word “last” be inserted before the word “registered owner” on page 5, line 18 and page 6, line 7.

### **Credit Cards**

Current law does not require tow companies to accept credit cards if they have an ATM on the premises. This is problematic for consumers who do not have sufficient funds in their accounts. Mandating the acceptance of credit cards, which virtually everyone has, will make it easier for consumers to recover their vehicles in a timelier fashion. The Department requests including “debit cards” as another acceptable form of payment on page 7, line 5.

### **Releasing Vehicles**

The OCP has received consumer complaints that tow companies require the owner of a vehicle with expired tags to register the vehicle, obtain insurance, and obtain a new safety check before the vehicle can be released. However, it is nearly impossible for consumers to satisfy the tow company’s vehicle registration requirement if the owner

cannot take the vehicle to a certified safety inspection site. The amendments to releasing the vehicle will help remedy these problems.

### **Penalty Provisions**

Current law does not explicitly make a violation of the towing law an unfair or deceptive trade practice. Adopting the penalties of HRS section 480-13 will bring violations of what is essentially a consumer protection statute in conformity with other consumer protection laws. For added oversight, the Department requests that the penalties and remedies under HRS chapter 487 also be included in this measure on page 9, line 9 and page 13, line 8.

### **Abandoned Vehicles**

This bill facilitates the processing of abandoned vehicles. Vehicles not recovered within 30 days by their vehicle owners are considered abandoned and can be sold or junked by the tow company if proper notice is provided to the legal owner. If a vehicle is sold, the authorized seller is entitled to the proceeds to cover any customary and reasonable charges for towing, handling, storage, as well as notice and advertising costs. The bill's two amendments to the sale of abandoned vehicles ensure that the remaining balance from the proceeds from the sale and the transfer of title of the sold vehicle will be handled properly.

First, the amendment to subsection (d) on page 8, lines 2 to 10 clarifies that the authorized seller must send any remaining balance from the sale of an unrecovered vehicle to the registered owner's address on record with the Department of Transportation or county Finance Department or, if no address is available, deposit the remaining balance into the State's Unclaimed Property Program administered by the Department of Budget and Finance. This amendment ensures that the monies from the sale of an unrecovered vehicle will go to the appropriate place when a vehicle owner cannot be found, after proper notice is given by the tow company.

Second, the amendment to subsection (e) on page 8, lines 12 to 17 clarifies that whenever an unrecovered vehicle is sold and title is transferred by operation of law, the provisions under HRS section 286-52(f), relating to transfers of title by operation of law, should be followed.

For the forgoing reasons, the Department strongly supports this bill. Its provisions will improve the towing statute and will diminish ambiguities that create additional and unreasonable barriers for vehicle owners whose vehicles have been towed.

Thank you for the opportunity to testify on this bill.



- Government Employees Insurance Company
- GEICO General Insurance Company
- GEICO Indemnity Company
- GEICO Casualty Company

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COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair  
Senator Jarrett Keohokalole, Vice Chair

HB 2162, HD2, Relating to Towing  
Tuesday, June 30, 2020, 9:46 am  
Room 016

Chair Rhoads, Vice Chair Keohokalole and Members of the Senate Judiciary Committee:

My name is Timothy M. Dayton, General Manager of GEICO. **GEICO is in support of HB 2162.** GEICO provides motor vehicle insurance for 178,000 Hawaii households. GEICO pays for thousands of tows from Hawaii accident scenes every year. Our extensive experience finds that the majority of Hawaii towing companies are fair and reasonable in what can be a challenging profession. However, we are also very familiar with the reality that a few towers can and will take advantage of consumers in a significant financial situation and there needs to be some structure to protect the public from such predatory practices. HB 2162 provides a well thought out balance to provide this structure. GEICO believes that this should benefit its policy holders, as well as members of the general public, who are confronted with towing situations.

GEICO very much appreciates the opportunity to present our testimony. **We support HB 2162 HD2 and respectfully urge the Committees to pass the proposal.**

Sincerely,

Timothy M. Dayton, CPCU

**HB-2162-HD-2**

Submitted on: 6/29/2020 3:38:23 PM

Testimony for JDC on 6/30/2020 9:46:00 AM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
HONOLULU TOWING INC	Testifying for Honolulu Towing Inc.	Oppose	No

Comments:

Please hear this message out. Due to Covid-19, a lot of businesses are in current hardship and dealing with staffing or having jobs to do for the day. I know with the new bill potentially being passed it forces new guidelines onto tow companies like providing new signages for properties to meet the new standards, but it also comes with a COST for the tow companies who are already struggling to stay in business. Many things have been put on halt and reassess due to Covid-19 and I feel the same measures should be implemented regarding to HB2162.

Thank you for your time.

**HB-2162-HD-2**

Submitted on: 6/30/2020 9:02:43 AM

Testimony for JDC on 6/30/2020 9:46:00 AM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rayne Kauhi	Individual	Support	No

Comments: