



DAVID Y. IGE  
GOVERNOR

JOSH GREEN  
LT. GOVERNOR

**STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

335 MERCHANT STREET, ROOM 310  
P.O. BOX 541  
HONOLULU, HAWAII 96809  
Phone Number: 586-2850  
Fax Number: 586-2856  
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN  
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

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

**Before the  
House Committee on Consumer Protection and Commerce  
Thursday, January 30, 2020  
2:30 p.m.  
State Capitol, Conference Room 329**

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

Chair Takumi 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 are to: (1) clarify the meaning of Hawaii Revised Statutes (HRS) chapter 290 (Abandoned Vehicles) by adding definitions; (2) require tow and storage companies to accept credit cards; and (3) include penalties consistent with those under HRS section 480-13.

H.B. 2162 addresses several deficiencies in the current towing law that hinder the OCP's ability to protect consumers. In pertinent part, H.B. 2162 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 (c)(2) on page 5, line 16 to page 6, line 3. 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.

### **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.

### **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.

### **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 (e) on page 9, lines 10 to 16 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 (f) on page 9, line 19 to page 10, line 3 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.

## TESTIMONY OF ALISON UEOKA

---

COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
Representative Roy M. Takumi, Chair  
Representative Linda Ichiyama, Vice Chair

Thursday, January 30, 2020  
2:30 p.m.

### **HB 2162**

Chair Takumi, Vice Chair Ichiyama, and members of the Committee on Consumer Protection & Commerce, my name is Alison Ueoka, President of the Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately forty percent of all property and casualty insurance premiums in the state.

Hawaii Insurers Council supports the intent of this consumer protection bill regarding towing. We ask that one technical amendment be included in section 290-11(g), line 9 of the bill so that the new sentence would read as follows,

“The towing services shall include the release of vehicles kept in storage to an [registered owner, legal owner,] insurer, vehicle owner, or a designated representative of either.”

This clarification would allow insurers or their designated representative to move the disabled vehicle from the tow yard to a body shop or other facility for repair or salvage.

Thank you for the opportunity to testify.



Young Progressives Demanding Action  
P.O. Box 11105  
Honolulu, HI 96828

January 28, 2020

**TO: House Committee on Consumer Protection and Commerce**  
**RE: Testimony in support of HB2162**

Aloha Chair Takumi, Vice Chair Ichiyama, and members of the CPC committee, My name is Chaessa Fryc, and I am Co-Chair of the Young Progressives Demanding Action (YPDA), representing advocates for public policies that reflect the values of young people throughout the State of Hawai'i, and I am in STRONG SUPPORT of HB 2162, relating to towing.

On a Wednesday night in the beginning of July, my mother's car was towed from her own parking stall in Kalihi. This is not a rare occurrence in Kalihi, specifically in her apartment complex where her neighbors have been wrongfully towed in the past, leaving them frustrated. On the night my mother's car was towed, supposedly it was towed because her parking pass "was not showing" when in fact, it was on her dashboard instead of her usual mirror. After parking in the same stall for seven months, the entire neighborhood had recognized that the black car in that stall was my mother's. Another neighbor's car was towed because his registration had expired. Lucky for him, his towing fee was reimbursed but not everyone had the same luck. My mother, on the other hand stood in the towing lot, struggling to find the money she needed to get her car back, and she could not use her credit card, since towing companies don't accept credit cards.

As I think about my mother's struggle to find the money she needed to get her car back, I reflected on the hardship other families face, when their car is wrongfully towed. What do families have to give up because they don't have the money to get their car back? Do they sacrifice a day or two of work because their car is far away, or do they have to give up a week of groceries to pay for their car back? Predatory towing poses undue hardships on disadvantaged communities and disproportionately affect areas such as Kalihi where many are living in affordable housing and poor neighborhoods. Currently, we don't have laws to prevent these

damaging business practices that place the most vulnerable in our communities in the most difficult situations.

Towing companies are supposed to be there when you need them, when cars are parked illegally, abandoned vehicles need to be moved, and your car is stuck in the middle of the freeway. Not lurking in the dark to see which car can they tow next to make money. Towing companies need to be regulated, which is why I support this measure.

In Hawaii, our towing laws are little known and towing companies are constantly breaking laws, because there is no way to enforce them. Along with breaking laws, towing companies are not paying the consequences they deserve due to the lack of common knowledge of Hawaii's Towing Laws, and because lawsuits are too expensive to make it worth the time and effort to get justice served. The state of Hawaii has little regulation over towing companies which enable predatory towing practices, which is why I strongly Support this measure.

With all this said, I STRONGLY SUPPORT HB 2162, and urge you to pass this bill.

**HB-2162**

Submitted on: 1/28/2020 2:03:59 PM

Testimony for CPC on 1/30/2020 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Eric Schrager	Individual	Support	No

Comments:

Aloha Committee members!

I strongly support this bill. Towing has become extremely predatory and the fees are too high, especially for people who don't make a lot of money. I also believe that credit cards must be accepted because folks sometimes just don't have cash and need car for work.

Please pass this important bill.

Thank You,

Eric Schrager

Ewa Beach



January 29, 2020

**LATE**

**TO: House Committee on Consumer Protection & Commerce**  
**RE: Testimony in support of HB2162**

Dear Representatives,

Tow companies ought to function as a needed service to residents living in urban areas. If someone is blocking a driveway, or a fire-hydrant, then a tow-truck ought to come and remove the car that is in the way. Instead, Honolulu's tow companies function as racketeers, going out of their way to seek out any vehicle that could conceivably be said to be in even the mildest form of violation of a city ordinance, to tow away. And many other times, these tow companies will tow away a car despite it being in complete compliance with city ordinances.

And what's worse, these tow companies intentionally target low-income areas, driving around in the middle of the night, to tow away what is often a struggling, low-wage worker's only means of earning money—their vehicle. Low-wage workers, students, kupuna, and anyone else who won't be able to hire an attorney or put up a fight against their predatory practices—that's who they target. They know perfectly well that these kinds of hardworking folks won't have a choice but to fork over the cash and get their vehicle back so they can get on with their lives.

When I attended the University of Hawai'i at Manoa, I lived off-campus one year along Date Street and La'au Street in a three story walk-up with three other roommates. Between the four of us, we had one assigned parking stall outside our apartment. Because I was the only one of us from O'ahu, I was the only one who, sometimes, had a car (my parents') and so I kept the parking permit. One morning shortly after the New Year during Christmas Break, I opened my apartment door and looked down at my parking stall and discovered that my dad's car was gone. I panicked and thought it had been stolen. And in a way, it had.

It turns out that one of the low-income urban neighborhoods that Ace Towing patrols is the Date and La'au area, where they prowl around after dark looking for cars to tow away and turn a profit on. My car—despite being parked in the proper stall with the permit displayed from the rear-view mirror—had been towed out of my own spot in the middle of the night.

Not wanting to bother my parents, I took three successive busses (and there was no all-day pass back then) to get all the way from Mo'ili'ili to Sand Island. It took my entire Saturday morning. I arrived at Ace Towing's depot only to discover, upon arrival, that they would only release the car to its registered owner. And, in any case, the roughly \$200 they said I owed (comprised of a series of fees, plus a charge for the mileage of towing my car from my own spot all the way to Sand Island) could only be paid in cash, which I didn't have.

So I had to call my dad to come all the way from Kane'ohe to Sand Island in my mom's car with \$200 in cash to get the car (imagine the days before cell phones!). When we confronted them about the car being parked in its own stall, we were informed that the permit I was using had

expired at the end of the calendar year—something my landlord had neglected to tell me would happen when I moved in over the summer. I tried to argue that the permit had no visible expiration date on it (which was true), and that my landlord had neither informed me about this, nor had he sent me a new permit in the mail. None of it mattered to the Ace Towing employee.

And frankly, none of it should have mattered at all. Who cares if the permit had expired, really? It was my stall. None of my neighbors called the tow company to complain. The car was not blocking anyone in. There was no reason to tow it other than to gouge me, a student, out of \$200. And I at least had parents on island willing to help me out. What would have happened if I was a minimum wage worker with no support network? That one incident could have derailed my entire life. Even though my landlord reimbursed me for the \$200, if I had been unable to pay that up-front, the car would have remained at Sand Island, racking up fees, making me late to work. It would have been a disaster.

Later that year, I was awoken at around midnight one night to the sound of large truck engine idling outside my apartment. Because the sound was so distinct, and because I had had such a bad experience, I rushed downstairs and, sure enough, Ace Towing was in the middle of towing the same car out of the same stall.

This time, the permit had fallen off the rear-view mirror onto the dash. It was still completely visible through the windshield. I confronted the driver and told him that not only was this my car, but it was parked in my stall. I told him to drop the car and leave. The driver told me that he would only drop the car if I “paid a drop fee” (a bribe), and only to the registered owner of the vehicle. I told him my dad was in Kane’ohe, but that I would call him—at midnight—and wake him up, so that the driver would not tow the car away. He agreed but said that—because he was already half way out of the stall—he would just pull the car all the way out, and then pull off to the side to wait. I naively believed him.

As I’m talking to my dad—who actually woke up when I called him—and telling him what is happening, the tow truck driver slowly pulls my car out of its stall all the way and proceeds to start to pull around the corner where he said he would wait. I’m still talking to my dad as the tow truck driver keeps going, and keeps going, and goes all the way down La’au Street, and disappears off into the night with the car. He wasn’t going to wait. He lied to my face and stole the car so that Ace Towing could extort me again.

This is commonplace routine for tow companies in Honolulu. They function like a racket and they need to be reigned in. Towing ought to be a service to the public. The whole industry ought to be taken over by the state and turned into a public good, like Fire or Police. But I’ll settle for some strong protections for taxpayers by passing this bill into law.

Mahalo,  
Will Caron  
Pālolo Valley