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# A BILL FOR AN ACT

RELATING TO TOWING.

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

1           SECTION 1. The legislature finds that section 290-11,  
2 Hawaii Revised Statutes, was enacted in 1973 to address the  
3 towing of vehicles left unattended on private and public  
4 property. Since then, section 290-11, Hawaii Revised Statutes,  
5 has been amended twenty-one times. The amendments have changed  
6 the amount of allowable fees, signage and notification  
7 requirements, and other important issues related to towing  
8 vehicles.

9           In 2007, the legislature took notice of complaints  
10 regarding "unhooking" fees, and Act 269, Session Laws of Hawaii  
11 2007, eliminated such fees "when an owner appears on the scene  
12 to recover a vehicle".

13           The legislature further finds that section 290-11, Hawaii  
14 Revised Statutes, uses multiple terms for "owner", resulting in  
15 confusion as to who may recover a vehicle that is hooked up or  
16 has been towed to a tow company's yard.

17           The purpose of this Act is to provide a definition section  
18 to section 290-11, Hawaii Revised Statutes, to address questions



1 of vehicle ownership and normalize the usage of the term  
2 "vehicle owner" in order to enable permissive users and renters  
3 to avail themselves of the protections envisioned by the  
4 legislature when Act 269, Session Laws of Hawaii 2007, became  
5 enacted.

6 SECTION 2. Section 290-11, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 **"§290-11 Vehicles left unattended on private and public**  
9 **property; sale or disposition of abandoned vehicles. (a) For**  
10 the purposes of this section:

11 "Hooked up" means attached to the tow truck and securely  
12 fastened by means of clamps, ropes, straps, cargo nets, or other  
13 suitable mechanical device to prevent the vehicle from dropping  
14 off of the tow truck or from shifting in any manner.

15 "Scene" refers to the following from which a vehicle is  
16 being towed:

17 (1) A parking stall on a public street or in a public or  
18 private parking lot;

19 (2) A particular spot on any property; or

20 (3) A spot curbside on a street in the case of a vehicle  
21 blocking a driveway, including partially;



1 For purposes of a tow truck hooking up a vehicle, the "scene"  
2 includes a radius of fifty feet around the vehicle being towed  
3 unless the vehicle is hooked up on a public street under  
4 paragraph (1) or curbside under paragraph (3).

5 "Vehicle owner" means the legal or registered owner of the  
6 vehicle, a person renting the vehicle pursuant to chapter 437D,  
7 or any person in possession of the key or remote keyless  
8 ignition system to the vehicle.

9 ~~[(a)]~~ (b) Notwithstanding any other provision of this  
10 chapter, any vehicle left unattended on private or public  
11 property without authorization of the owner or occupant of the  
12 property, may be towed away at the expense of the ~~[owner of the~~  
13 ~~vehicle,]~~ vehicle owner, by order of the owner, occupant, or  
14 person in charge of the property; provided that there is posted  
15 a notice prohibiting vehicles to park on the property without  
16 authorization. The notice shall state that the vehicle will be  
17 towed and held at the expense of the vehicle owner, as well as  
18 the name, address, and a telephone number of the facility where  
19 the vehicle will be towed and held. The notice shall be of such  
20 size and be placed in a location that is clearly visible to the  
21 driver of a vehicle approaching any individual marked or



1 unmarked parking space; provided that where an entire parking  
2 lot consists of restricted parking spaces, placement of the  
3 notice at each entrance of the parking lot shall suffice.

4 [~~(b)~~] (c) Towing companies engaged by the owner, occupant,  
5 or person in charge of the property shall:

6 (1) Charge not more than \$65 for a tow, or \$75 for a tow  
7 using a dolly, plus a mileage charge of \$7.50 per mile  
8 towed and \$25 per day or fraction thereof for storage  
9 for the first seven days and \$20 per day thereafter.

10 In the case of a difficult hookup, meaning an above or  
11 below ground hookup in a multilevel facility, a towing  
12 surcharge of \$30 shall be applicable. When the tow  
13 occurs between the hours of six o'clock p.m. and six  
14 o'clock a.m., from Monday through Thursday and from  
15 six o'clock p.m. Friday to six o'clock a.m. Monday,  
16 the towing company shall be entitled to an overtime  
17 charge of \$15. If the vehicle is in the process of  
18 being hooked up or is hooked up to the tow truck and  
19 the vehicle owner appears on the scene, the towing  
20 company shall [~~unhook~~] release the vehicle to the  
21 vehicle owner and shall not charge any fee to the



1            vehicle owner [~~of the vehicle. In the case of a~~  
2            ~~difficult hookup, meaning an above or below ground~~  
3            ~~hookup in a multilevel facility, a towing surcharge of~~  
4            ~~\$30 shall be applicable]; provided that if a vehicle  
5            is hooked up, outside of the scene as defined in this  
6            section, and the tow operator is in motion, there  
7            shall be no obligation on the part of the towing  
8            company to drop the tow and release the vehicle to the  
9            vehicle owner; provided further that a date and time  
10           stamped photograph of the hooked up vehicle at the  
11           scene, showing the license plate of the vehicle, shall  
12           be evidence that the vehicle is hooked up as defined  
13           in this section;~~

14           (2) Determine the name of the [~~legal owner and the~~  
15           ~~registered owner of the]~~ vehicle owner from the  
16           department of transportation or the county department  
17           of finance. The [~~legal owner and the registered]~~  
18           vehicle owner shall be notified in writing at the  
19           address on record with the department of  
20           transportation or with the county department of  
21           finance by registered or certified mail of the



1 location of the vehicle, together with a description  
2 of the vehicle, within a reasonable period not to  
3 exceed fifteen days following the tow. The notice  
4 shall state:

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

7 (B) The telephone number of the consumer information  
8 service of the department of commerce and  
9 consumer affairs; and

10 (C) That 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  
13 sold or disposed of as junk.

14 Where the [~~owners have~~] vehicle owner has not been so  
15 notified, then the vehicle owner may recover the  
16 [~~owner's car~~] vehicle from the towing company without  
17 paying any tow or storage fees; provided that the  
18 notice need not be sent to a legal or registered owner  
19 or any person with an unrecorded interest in the  
20 vehicle whose name or address cannot be determined.  
21 Absent evidence to the contrary, a notice shall be



1 deemed received by the [~~legal or registered~~] vehicle  
2 owner five days after the mailing. [A] Any person,  
3 including but not limited to the vehicle owner's or  
4 driver's insurer, who has been charged in excess of  
5 the charges permitted under this section may sue for  
6 damages sustained and, if the judgment is for the  
7 plaintiff, the court shall award the plaintiff a sum  
8 not to exceed the amount of the damages and reasonable  
9 attorney's fees together with the cost of suit;

10 (3) Provide, when a vehicle is recovered by the vehicle  
11 owner before written notice is sent by registered or  
12 certified mail, the vehicle owner with a receipt  
13 stating:

14 (A) The maximum towing charges and fees allowed by  
15 law; and

16 (B) The telephone number of the consumer information  
17 service of the department of commerce and  
18 consumer affairs; and

19 (4) Accommodate payment by the vehicle owner for charges  
20 under paragraph (1) by cash and by either credit card  
21 or automated teller machine located on the premises.



1           ~~[(e)]~~ (d) When a vehicle is not recovered within thirty  
2 days after the mailing of the notice, it shall be deemed  
3 abandoned and the owner of the towing company, or the owner of  
4 the towing company's authorized representative, after one public  
5 advertisement in a newspaper of general circulation in the  
6 State, may negotiate a sale of the vehicle or dispose of it as  
7 junk.

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





1 the sales agreement. If no claim is made within the year  
2 allowed, the money shall become a state realization.

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

8 ~~[(f)]~~ (g) Notwithstanding any law or ordinance to the  
9 contrary, including subsection ~~[(g)]~~, (h) and section 46-20.5,  
10 any towing company engaged in towing in a county with a  
11 population greater than five hundred thousand shall offer towing  
12 services to consumers twenty-four hours per day every day of the  
13 week, which services shall include the release of vehicles kept  
14 in storage to a registered owner, legal owner, insurer, or a  
15 designated representative.

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

18 SECTION 3. Section 291C-165.5, Hawaii Revised Statutes, is  
19 amended by amending subsection (b) to read as follows:

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)~~] 290-11(c) or the rates agreed



1 upon with the respective counties, whichever is lower, except  
2 that tow 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 SECTION 4. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 5. This Act shall take effect on July 1, 2050.



**Report Title:**

Towing; Vehicle Owner; Hooked Up; Scene; Towing Company

**Description:**

Establishes definitions of "hooked up", "scene", and "vehicle owner" to clarify when a vehicle must be released by a towing company. Permits a towing charge of \$30 for difficult hookups. Specifies that a tow company is not obligated to drop a tow if the vehicle is hooked up, outside of the scene, and the tow operator is in motion. Establishes date and time stamped photo as proof of vehicle being hooked up. Effective 07/01/2050.  
(SD2)

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