



GOV. MSG. NO. 1333

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 11, 2016

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki,
Speaker
and Members of the House
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

I am transmitting herewith HB1747 HD1 SD1 CD1, without my approval, and with the statement of objections relating to the measure.

HB1747 HD1 SD1 CD1

RELATING TO MOTOR VEHICLES

Sincerely,

A handwritten signature in black ink that reads "David Y. Ige".

DAVID Y. IGE
Governor, State of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

July 11, 2016

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1747

Honorable Members
Twenty-Eighth Legislature
State of Hawai'i

Pursuant to Section 16 of Article III of the Constitution of the State of Hawai'i, I am returning herewith, without my approval, House Bill No. 1747, entitled "A Bill for an Act Relating to Motor Vehicles."

The purpose of this bill is to increase traffic safety by authorizing police officers to have motor vehicles towed and impounded if the vehicle's operator is arrested or cited for operating the vehicle under the influence of an intoxicant. The towing and impoundment of the vehicle is a deterrent to this type of behavior.

I am concerned that this bill does not reflect the original intent, which was to authorize the police to tow vehicles for various traffic offenses such as no driver's license, habitually Operating a Vehicle Under the Influence of an Intoxicant (OVUII), and operating a vehicle while license was revoked for OVUII. The final bill only authorizes the police to tow vehicles for the offense of OVUII, which severely limits the effects of this bill, particularly on habitual repeat offenders.

Furthermore, the police would have to articulate their reason to believe that the suspect will likely return to the vehicle and drive again. This would in turn undermine and adversely impact Hawai'i County Ordinance No. 11-102, also known as "Aliyah's Law," which permits the towing of vehicles of operators driving under the influence of alcohol or drugs, without a valid driver's license or with fraudulent license plates or registration emblems.

For the foregoing reasons, I am returning House Bill No. 1747 without my approval.

STATEMENT OF OBJECTIONS
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Respectfully,

A handwritten signature in black ink, appearing to read "David Y. Ige". The signature is fluid and cursive, with a large initial "D" and "Y".

DAVID Y. IGE
Governor of Hawai'i

A BILL FOR AN ACT

RELATING TO MOTOR VEHICLES.

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

1 SECTION 1. Chapter 291C, Hawaii Revised Statutes, is
2 amended by adding a new section to part XV to be appropriately
3 designated and to read as follows:

4 "§291C- Motor vehicle towing and storage; violations.

5 (a) A police officer citing or arresting a driver for any of
6 the following traffic violations may have the motor vehicle that
7 the driver was operating at the time of the citation or arrest
8 towed to a private tow yard and impounded at the registered
9 owner's expense pursuant to section 291C-165.5(a):

10 (1) Operating a vehicle under the influence of an
11 intoxicant, pursuant to section 291E-61; and

12 (2) Operating a vehicle after consuming a measurable
13 amount of alcohol; persons under the age of twenty-
14 one, pursuant to section 291E-64;

15 provided that the arresting officer has reason to believe the
16 arrested person is likely to return to the vehicle and continue
17 to drive under the influence of an intoxicant after being
18 released from custody.



1 (b) Vehicles shall not be towed or impounded pursuant to
2 this section under any of the following circumstances:

3 (1) The motor vehicle is parked on private property on
4 which the registered owner or operator is legally
5 residing, or the property owner does not object to the
6 motor vehicle being left in the parked location;

7 (2) The registered owner or a passenger present in the
8 vehicle when the operator is arrested, or when a
9 summons or citation is issued, has a valid driver's
10 license and is willing and legally able to operate the
11 motor vehicle;

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

16 (4) The motor vehicle is engaged in community caretaking
17 at the time of the encounter. As used in this
18 paragraph, "community caretaking" means any situation
19 in which a law enforcement officer is using the
20 vehicle for a consensual police-citizen encounter that



1 is unrelated to the investigation or detection of any
2 criminal activity.

3 (c) No county police department or police officer shall be
4 responsible for the protection of a motor vehicle left on any
5 public way or private property after the motor vehicle's
6 operator has been arrested for a violation listed in subsection
7 (a)."

8 SECTION 2. Section 291C-165.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§291C-165.5 Motor vehicle towing and storage; settlement.

11 (a) Notwithstanding any other provision of this chapter, any
12 vehicle identified for removal pursuant to any county ordinance
13 or section 291C- ordering or authorizing removal of motor
14 vehicles by any county police department for traffic violations,
15 including a vehicle [~~which~~] that constitutes an obstruction or
16 hazard to traffic, may be towed away at the expense of the
17 registered owner of the vehicle, as provided by this section.

18 (b) The towing company shall determine the name of the
19 lien holder and the registered owner of the vehicle from the
20 department of transportation or the county department of
21 finance. The lien holder and the registered owner shall be



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

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

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

10 (3) That if the vehicle is not recovered within thirty
11 days after the mailing of the notice, the vehicle
12 shall be deemed abandoned and will be sold or disposed
13 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, pursuant to
20 subsection (c), before or after the person has
21 recovered possession of the vehicle pursuant to



1 subparagraph (A), to determine whether there was
2 a sufficient factual and legal basis for removing
3 the vehicle.

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



1 plaintiff, the court shall award the plaintiff a sum not to
2 exceed the amount of these damages and reasonable attorney's
3 fees together with the cost of the suit.

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

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

20 [~~(d)~~] (e) When a vehicle is not recovered within thirty
21 days after the mailing of the notice, it shall be deemed



1 abandoned and the owner of the towing company, or the owner of
2 the towing company's authorized representative, after one
3 statewide public notice as required in section 1-28.5, may
4 negotiate a sale of the vehicle or dispose of it as junk.

5 ~~(e)~~ (f) The authorized seller of the vehicle shall be
6 entitled to the proceeds of the sale to the extent that
7 compensation is due the authorized seller for services rendered
8 in respect to the vehicle, including reasonable and customary
9 charges for towing, handling, storage, and the cost of the
10 notices and advertising required by this part. Any remaining
11 balance shall be forwarded to the registered owner or lien
12 holder of the vehicle if the registered owner or lien holder is
13 found. If the registered owner or lien holder cannot be found,
14 the balance shall be deposited with the director of finance of
15 the State and shall be paid out to the registered owner or lien
16 holder of the vehicle if a proper claim is filed therefor within
17 one year from the execution of the sales agreement. The lien
18 holder shall have first priority to the funds to the extent of
19 the lien holder's claim. If no claim is made within the year
20 allowed, the money shall escheat to the State.



