

JAN 22 2015

---

---

# 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.



# S.B. NO. 16

1           The purpose of this Act is to provide a definition section  
2 to section 290-11, Hawaii Revised Statutes, to address questions  
3 of vehicle ownership and normalize the usage of the term  
4 "vehicle owner" in order to enable permissive users and renters  
5 to avail themselves of the protections envisioned by the  
6 legislature when Act 269, Session Laws of Hawaii 2007, became  
7 enacted.

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

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

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

17           "Scene" means the property from which the vehicle is being  
18 towed, or in the case of a tow from a public street, the stall  
19 or immediate vicinity in which the vehicle is parked.

20           "Vehicle owner" means the legal or registered owner of the  
21 vehicle, a person renting the vehicle pursuant to chapter 437D,



1 or any person in possession of the key or remote keyless  
2 ignition system to the vehicle.

3        ~~[(a)]~~ (b) Notwithstanding any other provision of this  
4 chapter, any vehicle left unattended on private or public  
5 property without authorization of the owner or occupant of the  
6 property, may be towed away at the expense of the ~~[owner of the~~  
7 ~~vehicle,]~~ vehicle owner, by order of the owner, occupant, or  
8 person in charge of the property; provided that there is posted  
9 a notice prohibiting vehicles to park on the property without  
10 authorization. The notice shall state that the vehicle will be  
11 towed and held at the expense of the vehicle owner, as well as  
12 the name, address, and a telephone number of the facility where  
13 the vehicle will be towed and held. The notice shall be of such  
14 size and be placed in a location that is clearly visible to the  
15 driver of a vehicle approaching any individual marked or  
16 unmarked parking space; provided that where an entire parking  
17 lot consists of restricted parking spaces, placement of the  
18 notice at each entrance of the parking lot shall suffice.

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



## S.B. NO. 16

1 (1) Charge not more than \$65 for a tow, or \$75 for a tow  
2 using a dolly, plus a mileage charge of \$7.50 per mile  
3 towed and \$25 per day or fraction thereof for storage  
4 for the first seven days and \$20 per day thereafter.  
5 In the case of a difficult hookup, meaning an above or  
6 below ground hookup in a multilevel facility, a towing  
7 surcharge of \$30 shall be applicable. When the tow  
8 occurs between the hours of six o'clock p.m. and six  
9 o'clock a.m., from Monday through Thursday and from  
10 six o'clock p.m. Friday to six o'clock a.m. Monday,  
11 the towing company shall be entitled to an overtime  
12 charge of \$15. If the vehicle is in the process of  
13 being hooked up or is hooked up to the tow truck and  
14 the vehicle owner appears on the scene, the towing  
15 company shall ~~[unhook]~~ release the vehicle to the  
16 vehicle owner and shall not charge any fee to the  
17 vehicle owner ~~[of the vehicle. In the case of a~~  
18 ~~difficult hookup, meaning an above or below ground~~  
19 ~~hookup in a multilevel facility, a towing surcharge of~~  
20 ~~\$30 shall be applicable]~~; provided that a date and  
21 time stamped photograph of the hooked up vehicle at



# S.B. NO. 16

1           the scene, showing the license plate of the vehicle,  
2           shall be evidence that the vehicle is hooked up as  
3           defined in this section;

4           (2) Determine the name of the [~~legal owner and the~~  
5           ~~registered owner of the~~] vehicle owner from the  
6           department of transportation or the county department  
7           of finance. The [~~legal owner and the registered~~  
8           vehicle owner shall be notified in writing at the  
9           address on record with the department of  
10          transportation or with the county department of  
11          finance by registered or certified mail of the  
12          location of the vehicle, together with a description  
13          of the vehicle, within a reasonable period not to  
14          exceed fifteen days following the tow. The notice  
15          shall state:

16          (A) The maximum towing charges and fees allowed by  
17                law;

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



## S.B. NO. 16

1 (C) That if the vehicle is not recovered within  
2 thirty days after the mailing of the notice, the  
3 vehicle shall be deemed abandoned and will be  
4 sold or disposed of as junk.

5 Where the [~~owners have~~] vehicle owner has not been so  
6 notified, then the vehicle owner may recover the  
7 [~~owner's car~~] vehicle from the towing company without  
8 paying any tow or storage fees; provided that the  
9 notice need not be sent to a legal or registered owner  
10 or any person with an unrecorded interest in the  
11 vehicle whose name or address cannot be determined.  
12 Absent evidence to the contrary, a notice shall be  
13 deemed received by the [~~legal or registered~~] vehicle  
14 owner five days after the mailing. [A] Any person,  
15 including but not limited to the vehicle owner's or  
16 driver's insurer, who has been charged in excess of  
17 the charges permitted under this section may sue for  
18 damages sustained and, if the judgment is for the  
19 plaintiff, the court shall award the plaintiff a sum  
20 not to exceed the amount of the damages and reasonable  
21 attorney's fees together with the cost of suit;



# S.B. NO. 16

1 (3) Provide, when a vehicle is recovered by the vehicle  
2 owner before written notice is sent by registered or  
3 certified mail, the vehicle owner with a receipt  
4 stating:

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

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

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

13 [~~(d)~~] (d) When a vehicle is not recovered within thirty  
14 days after the mailing of the notice, it shall be deemed  
15 abandoned and the owner of the towing company, or the owner of  
16 the towing company's authorized representative, after one public  
17 advertisement in a newspaper of general circulation in the  
18 State, may negotiate a sale of the vehicle or dispose of it as  
19 junk.

20 [~~(e)~~] (e) The authorized seller of the vehicle shall be  
21 entitled to the proceeds of the sale to the extent that



## S.B. NO. 16

1 compensation is due the authorized seller for services rendered  
2 in respect to the vehicle, including reasonable and customary  
3 charges for towing, handling, storage, and the cost of the  
4 notices and advertising required by this part. Any remaining  
5 balance shall be forwarded to the [~~legal or registered~~] vehicle  
6 owner [~~of the vehicle~~] if the [~~legal or registered~~] vehicle  
7 owner can be found. If the [~~legal or registered~~] vehicle owner  
8 cannot be found, the balance shall be deposited with the  
9 director of finance of the State and shall be paid out to the  
10 [~~legal or registered~~] vehicle owner [~~of the vehicle~~] if a proper  
11 claim is filed therefor within one year from the execution of  
12 the sales agreement. If no claim is made within the year  
13 allowed, the money shall become a state realization.

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

19 [~~(f)~~] (g) Notwithstanding any law or ordinance to the  
20 contrary, including subsection [~~(g)~~], (h) and section 46-20.5,  
21 any towing company engaged in towing in a county with a





# S.B. NO. 16

1 population greater than five hundred thousand shall offer towing  
2 services to consumers twenty-four hours per day every day of the  
3 week, which services shall include the release of vehicles kept  
4 in storage to a registered owner, legal owner, insurer, or a  
5 designated representative.

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

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

10 "(b) The towing company shall determine the name of the  
11 lien holder and the registered owner of the vehicle from the  
12 department of transportation or the county department of  
13 finance. The lien holder and the registered owner shall be  
14 notified by the towing company in writing at the address on  
15 record with the department of transportation or with the county  
16 department of finance by registered or certified mail of the  
17 location of the vehicle, together with a description of the  
18 vehicle, within a reasonable period not to exceed twenty days  
19 following the tow. The notice shall state:

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



## S.B. NO. 16

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

3 (3) That if the vehicle is not recovered within thirty  
4 days after the mailing of the notice, the vehicle  
5 shall be deemed abandoned and will be sold or disposed  
6 of as junk.

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



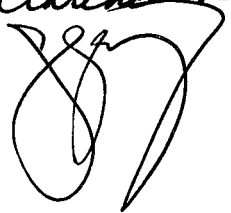
# S.B. NO. 16

1 limited to the owner's or driver's insurer, who has been charged  
 2 in excess of the charges permitted under this section may sue  
 3 for damages sustained, and, if the judgment is for the  
 4 plaintiff, the court shall award the plaintiff a sum not to  
 5 exceed the amount of these damages and reasonable attorney's  
 6 fees together with the cost of the suit."

7 SECTION 4. Statutory material to be repealed is bracketed  
 8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon its approval.

10

INTRODUCED BY: Pooja de Bok  
Michelle Sidani  
Breene Kunit  
Melani Ushole  
Clarence K. Nishikawa  




# S.B. NO. 16

**Report Title:**

Towing; Vehicle Owner

**Description:**

Establishes definitions of "hooked up", "scene", and "vehicle owner" to clarify when a vehicle must be released by a towing company. Establishes date and time stamped photo as proof of vehicle being hooked up.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

