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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 predatory towing is  
2 a combination of generally unethical practices used by some  
3 towing companies to maximize their income. These practices  
4 include using spotters to get cars towed almost as soon as they  
5 are parked; charging excessive fees for towing or storage; or  
6 making private side deals with owners of stores or parking lots  
7 to maximize towing income. The legislature further finds that  
8 any of these practices can result in unfair and excessive  
9 charges for the vehicle owner.

10           The purpose of this Act is to protect consumers from  
11 predatory towing practices by:

- 12           (1) Clarifying the fees tow companies may charge;  
13           (2) Clarifying the duties of a tow company when a vehicle  
14           owner arrives on the scene while the vehicle is in the  
15           process of being hooked up;  
16           (3) Requiring tow and storage companies to accept credit  
17           cards;



1 (4) Subjecting any violation of the towing statute to the  
2 penalties and remedies under the State's unfair or  
3 deceptive acts or practices law; and

4 (5) Adding definitions for clarity.

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

7 "§290-11 Vehicles left unattended on private and public  
8 property; sale or disposition of abandoned vehicles. (a)

9 Notwithstanding any other provision of this chapter, any vehicle  
10 left unattended on private or public property without  
11 authorization of the owner or occupant of the property, may be  
12 towed away at the expense of the vehicle owner [~~of the vehicle~~],  
13 by order of the owner, occupant, or person in charge of the  
14 property; provided that there is posted a notice prohibiting  
15 vehicles to park on the property without authorization. The  
16 notice shall clearly state, in not less than two-inch high,  
17 light reflective letters on a contrasting background, that the  
18 vehicle parked without authorization will be towed and held at  
19 the expense of the vehicle owner, as well as the name, address,  
20 and a telephone number of the facility where the vehicle will be  
21 towed and held. The notice shall be of such size and be placed



1 in a location that is clearly visible to the driver of a vehicle  
2 approaching any individual marked or unmarked parking space;  
3 provided that where an entire parking lot consists of restricted  
4 parking spaces, placement of the notice at each entrance of the  
5 parking lot shall suffice.

6 (b) Towing companies engaged by the owner, occupant, or  
7 person in charge of the property shall:

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

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



1 ~~vehicle. In the case of a difficult hookup, meaning~~  
2 ~~an above or below ground hookup in a multilevel~~  
3 ~~facility, a towing surcharge of \$30 shall be~~  
4 ~~applicable;]~~ The charges listed in this paragraph  
5 shall be the only charges tow companies are authorized  
6 to charge vehicle owners. For purposes of this  
7 paragraph, "difficult hookup" shall mean an above or  
8 below ground hookup in a multilevel facility;

9 (2) If the vehicle is in the process of being hooked up,  
10 meaning up to the point when the tow truck is driving  
11 away, and the vehicle owner appears on the scene, the  
12 tow company shall release the vehicle to the vehicle  
13 owner at a location that ensures the safety of all  
14 persons and property involved, regardless of whether  
15 the release occurs on the scene or if the vehicle must  
16 be removed from the scene to be safely released;  
17 provided that no fee will be charged to the vehicle  
18 owner under this paragraph;

19 ~~[(+2)]~~ (3) Determine the name of the legal owner and the  
20 last registered owner of the vehicle from the  
21 department of transportation or the county department



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

9 (A) The maximum towing charges and fees allowed by  
10 law;

11 (B) The telephone number of the consumer information  
12 service of the department of commerce and  
13 consumer affairs; and

14 (C) That if the vehicle is not recovered within  
15 thirty days after the mailing of the notice, the  
16 vehicle shall be deemed abandoned and will be  
17 sold or disposed of as junk.

18 Where the [~~owners~~] legal owner and the registered  
19 owner have not been [~~se~~] notified[, ~~then the owner~~]  
20 pursuant to this paragraph, the vehicle may [~~recover~~  
21 the owner's car] be recovered by the vehicle owner



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

16 [~~(3)~~] (4) Provide, when a vehicle is recovered by the  
17 vehicle owner [~~before written notice is sent by~~  
18 ~~registered or certified mail,~~] the vehicle owner with  
19 a receipt stating:

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



1 (B) The telephone number of the consumer information  
2 service of the department of commerce and  
3 consumer affairs; and

4 ~~[(4)]~~ (5) Accommodate payment by the vehicle owner for  
5 charges under paragraph (1) by cash and by ~~[either]~~  
6 credit card ~~[or automated teller machine located on~~  
7 ~~the premises]~~.

8 (c) When a vehicle is not recovered within thirty days  
9 after the mailing of the notice, it shall be deemed abandoned  
10 and the owner of the towing company, or the owner of the towing  
11 company's authorized representative, after one public  
12 advertisement in a newspaper of general circulation in the  
13 State, may negotiate a sale of the vehicle or dispose of it as  
14 junk.

15 (d) The authorized seller of the vehicle shall be entitled  
16 to the proceeds of the sale to the extent that compensation is  
17 due the authorized seller for services rendered in respect to  
18 the vehicle, including reasonable and customary charges for  
19 towing, handling, storage, and the cost of the notices and  
20 advertising required by this part. Any remaining balance shall  
21 be forwarded to the legal owner or last registered owner of the



1 vehicle if the legal owner or last registered owner can be  
2 found. If the legal owner or last registered owner cannot be  
3 found at the address on record at the department of  
4 transportation or the county department of finance, the balance  
5 shall be deposited with the [~~director of finance of the State~~]  
6 State's unclaimed property program administered by the  
7 department of budget and finance and shall be paid out to the  
8 legal owner or last registered owner of the vehicle if a proper  
9 claim is filed therefor within one year from the execution of  
10 the sales agreement. If no claim is made within the year  
11 allowed, the money shall become a state realization.

12 (e) The transfer of title and interest by sale under this  
13 part is a transfer by operation of law[~~; provided that if the~~  
14 ~~certificate of ownership or registration is unavailable, a bill~~  
15 ~~of sale executed by an authorized seller is satisfactory~~  
16 ~~evidence authorizing the transfer of the title or interest.~~],  
17 pursuant to the requirements under section 286-52(f).

18 (f) Notwithstanding any law or ordinance to the contrary,  
19 including subsection [~~(g)~~] (h) and section 46-20.5, any towing  
20 company engaged in towing in a county with a population greater  
21 than five hundred thousand shall offer towing services to





1 consumers twenty-four hours per day every day of the week[  
2 ~~which~~]. The towing services shall include the release of  
3 vehicles kept in storage to [a ~~registered owner, legal owner,~~  
4 an insurer, vehicle owner or a designated representative.

5 (g) Any person who violates any provision of this section  
6 shall be deemed to have engaged in an unfair or deceptive act or  
7 practice in the conduct of any trade or commerce within the  
8 meaning of section 480-2 and subject to penalties and remedies  
9 under chapter 480.

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

12 (i) As used in this section:

13 "Hooked up" means completely and securely attached and  
14 fastened to the tow truck by means of clamps, couplings, straps,  
15 tow bars, and other mechanical devices that are specifically  
16 designed to prevent the vehicle from dropping off or detaching  
17 from the tow truck in any way or otherwise shifting in any  
18 manner.

19 "Scene" means the location of the vehicle while it is in  
20 the process of being hooked up, or the location where it was



1 hooked up, and anywhere within a fifty foot radius of that  
2 location.

3 "Vehicle owner" means any person, other than the towing  
4 company, who has possession of or any other interest in the  
5 vehicle, including but not limited to the legal or last  
6 registered owner of the vehicle, the person renting the vehicle  
7 pursuant to chapter 437D, or any person in possession of the key  
8 or remote keyless ignition system device to the vehicle.

9 "Vehicle parked without authorization" means any vehicle  
10 left unattended on private or public property that is not parked  
11 in compliance with the notice required by subsection (a).

12 "Vehicle parked without authorization" shall not include:

13 (1) A vehicle otherwise parked in compliance with the  
14 notice required by subsection (a) where the vehicle  
15 owner has prepaid for parking and placed a payment  
16 receipt, placard, or permit anywhere on or in the  
17 vehicle and the payment receipt, placard, or permit is  
18 visible from outside the vehicle; or

19 (2) A vehicle otherwise parked in compliance with the  
20 notice required by subsection (a) where the vehicle  
21 owner has received authorization from an owner,



1           occupant, or person in charge of the property and  
2           placed the placard, permit, or written authorization,  
3           if any, anywhere on or in the vehicle and the placard,  
4           permit, or written authorization is visible from the  
5           outside of the vehicle."

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

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

- 18           (1) The maximum towing charges and fees allowed by law;  
19           (2) The telephone number of the county finance department  
20           that arranged for or authorized the tow; and



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

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



1 ~~for damages sustained, and, if the judgment is for the~~  
2 ~~plaintiff, the court shall award the plaintiff a sum not to~~  
3 ~~exceed the amount of these damages and reasonable attorney's~~  
4 ~~fees together with the cost of the suit.] Any person who~~  
5 violates any provision of this section shall be deemed to have  
6 engaged in an unfair or deceptive act or practice in the conduct  
7 of any trade or commerce within the meaning of section 480-2 and  
8 subject to the penalties and remedies of chapter 480."

9 SECTION 4. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

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



**Report Title:**

Predatory Towing; Towing; Abandoned Vehicles; Unfair or Deceptive Acts or Practices

**Description:**

Clarifies the fees tow companies may charge. Clarifies the duties of tow companies when vehicle owners arrive on the scene while their vehicles are in the process of being hooked up. Requires tow and storage companies to accept credit cards. Subjects violations of the towing statute to the penalties and remedies under the State's unfair or deceptive acts or practices law. Adds definitions for clarity. Effective 7/1/2050. (HD2)

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

