

EDDIE BAZA CALVO  
Governor



RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam*

NOV 27 2013

Honorable Judith T. Won Pat, Ed.D.  
Speaker  
*I Mina'trentai Dos Na Liheslaturan Guåhan*  
155 Hesler Street  
Hagåtña, Guam 96910

32-13-1021  
Office of the Speaker  
Judith T. Won Pat, Ed. D.  
Date 11.29.13  
Time 10:00 am  
Received by [Signature]

2013 NOV 29 AM 11:11

Dear Madame Speaker:

Transmitted herewith is Bill No. 210-32 (COR) "AN ACT TO ADD A NEW SUBSECTION (6) TO § 12101, AND TO AMEND §§ 12101(4), 12104, 12106 AND 12107, ALL OF CHAPTER 12, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO INFORMING THE OWNER, LIENHOLDER AND INSURER WHEN A VEHICLE HAS BEEN TOWED, AND PROVIDING FOR THE LIABILITY OF A TOWING COMPANY FOR DAMAGE SUSTAINED TO A VEHICLE WHILE IN ITS CUSTODY" which I signed into law on November 27, 2013 as Public Law 32-092.

*Senseramente,*

  
EDDIE BAZA CALVO



*I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN*  
2013 (FIRST) Regular Session

**CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN**

This is to certify that **Bill No. 210-32 (COR)**, "AN ACT TO ADD A NEW SUBSECTION (6) TO § 12101, AND TO AMEND §§ 12101(4), 12104, 12106 AND 12107, ALL OF CHAPTER 12, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO INFORMING THE OWNER, LIENHOLDER AND INSURER WHEN A VEHICLE HAS BEEN TOWED, AND PROVIDING FOR THE LIABILITY OF A TOWING COMPANY FOR DAMAGE SUSTAINED TO A VEHICLE WHILE IN ITS CUSTODY", was on the 12<sup>th</sup> day of November 2013, duly and regularly passed.




Judith T. Won Pat, Ed.D.  
Speaker

Attested:



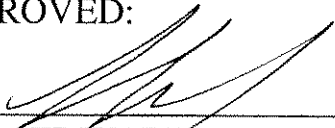
Tina Rose Muña Barnes  
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 15<sup>th</sup> day of Nov.,  
2013, at 11:28 o'clock A.M.



Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:



EDWARD J.B. CALVO  
*I Maga'lahen Guåhan*

Date: NOV 27 2013

Public Law No. 32-092

*I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN*  
**2013 (FIRST) Regular Session**

**Bill No. 210-32 (COR)**

As amended by the Committee on Aviation, Ground  
Transportation, Regulatory Concerns and Future Generations;  
and further amended on the Floor.

Introduced by:

Michael F. Q. San Nicolas  
Vicente (ben) C. Pangelinan  
T. C. Ada  
B. J.F. Cruz  
Brant T. McCreadie  
Dennis G. Rodriguez, Jr.  
V. Anthony Ada  
FRANK B. AGUON, JR.  
Chris M. Dueñas  
Michael T. Limtiaco  
Tommy Morrison  
T. R. Muña Barnes  
R. J. Respicio  
Aline A. Yamashita, Ph.D.  
Judith T. Won Pat, Ed.D.

**AN ACT TO ADD A NEW SUBSECTION (6) TO § 12101,  
AND TO AMEND §§ 12101(4), 12104, 12106 AND 12107,  
ALL OF CHAPTER 12, TITLE 16, GUAM CODE  
ANNOTATED, RELATIVE TO INFORMING THE  
OWNER, LIENHOLDER AND INSURER WHEN A  
VEHICLE HAS BEEN TOWED, AND PROVIDING FOR  
THE LIABILITY OF A TOWING COMPANY FOR  
DAMAGE SUSTAINED TO A VEHICLE WHILE IN ITS  
CUSTODY.**

1        **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2        **Section 1. Short Title.** This Act *shall* be cited as the “Responsible  
3        Lienholder and Insurer Towing Information Act.”

1           **Section 2. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
2 that Public Law 23-144 requires that registered owners be informed within five (5)  
3 days of when their vehicle has been towed without the owner’s knowledge,  
4 notifying the individual of the circumstances under which the vehicle was towed  
5 and how to retrieve the vehicle.

6           In many cases, an owner has financed the purchase of a vehicle, so there is a  
7 lien on the vehicle by a lending institution. Under the law, the only person  
8 informed when a car is towed is the registered owner. Occasionally, an owner may  
9 leave a vehicle with a towing company for so long that it is considered abandoned.  
10 Only after it has been abandoned does the lienholder become informed that the  
11 vehicle had been towed and is impounded. Substantial fees can result from such a  
12 circumstance, sometimes in excess of Five Thousand Dollars (\$5,000). Such costs  
13 will ultimately be borne by borrowers.

14           It is, therefore, the intent of *I Liheslaturan Guåhan* to require that when a  
15 vehicle is towed, the towing company *shall* inform the owner, insurer, and the  
16 lienholder, by amending §§12101, 12104, 12106, and 12107 of Chapter 12, Title  
17 16, Guam Code Annotated.

18           **Section 3. Definition of Tow Truck Business.** Subsection (4) of §12101,  
19 Chapter 12, Title 16, Guam Code Annotated, is hereby *amended* to read:

20           “(4) *Tow truck business* means any sole proprietorship, corporation,  
21 limited liability company, partnership, joint venture or other form of  
22 business entity engaged in the business of providing tow truck services.”

23           **Section 4. Definition of Vehicle Condition Report.** A new Subsection  
24 (6) is hereby *added* to §12101, Chapter 12, Title 16, Guam Code Annotated, to  
25 read:

26           “(6) *Vehicle condition report* means a report completed by a person  
27 operating a tow truck and performing a tow truck service, which documents

1 the condition of the vehicle on which such service is performed, including  
2 comprehensive notes, diagrams and photographic evidence, either analog or  
3 digital, to establish the condition of a vehicle and any damage thereto when  
4 such vehicle is taken into custody of the tow truck business.”

5 **Section 5. Towing Notice Requirements; Cost Responsibilities.** §12104  
6 of Chapter 12, Title 16, Guam Code Annotated, is hereby *amended* to read:

7 “§ 12104. **Towing Notice Requirements; Cost Responsibilities.**

8 (a) *Unless* a vehicle is impounded under § 3606 of Article 6,  
9 Chapter 3 of this Title 16, after performing a tow truck service without the  
10 vehicle owner's knowledge, the person operating the tow truck business  
11 *shall*:

12 (1) complete a vehicle condition report, as defined in  
13 §12101(6) of this Chapter;

14 (2) within one hour of arriving at the place of storage or  
15 impound of the vehicle, contact the law enforcement agency having  
16 jurisdiction over the area from which the vehicle was towed and  
17 notify the agency of the:

18 (A) location of the vehicle;

19 (B) date, time, and location from which the vehicle  
20 was removed;

21 (C) reasons for the removal of the vehicle;

22 (D) person who requested the removal of the vehicle;

23 and

24 (E) vehicle's description, including its identification  
25 number and license number; and

26 (3) within two (2) days of performing the tow truck service,  
27 send a certified letter to the last known address of the legal owner,

1 registered owner, vehicle insurer and lienholder, where applicable, of  
2 the vehicle (obtained from the DRT Division of Motor Vehicles),  
3 notifying them of the:

4 (A) location of vehicle;

5 (B) date, time, and location from which the vehicle  
6 was removed;

7 (C) reasons for the removal of the vehicle;

8 (D) person who requested the removal of the vehicle;

9 (E) vehicle's description, including its identification  
10 number and license number;

11 (F) costs and procedures to retrieve the vehicle; and

12 (G) a copy of the vehicle condition report required by  
13 Subsection (a)(1) of this Section.

14 (4) For purposes of this Section, the Division of Motor  
15 Vehicles *shall*, upon the presentation of a declaration made under  
16 penalty of perjury that a vehicle has been towed and taken into the  
17 possession of a tow truck business, provide tow truck businesses with  
18 the last known address of the legal owner, registered owner, vehicle  
19 insurer, and lienholder, where applicable, of the vehicle in question.  
20 The tow truck business *shall* furnish the Division of Motor Vehicles  
21 with a copy of the notice sent pursuant to Subsection (a)(3) of this  
22 Section within two days via certified mail after the release of the  
23 addresses of the legal owner, registered owner, vehicle insurer and  
24 lienholder, where applicable.

25 (b) The legal owner, registered owner, insurer or lienholder seeking  
26 the release of a vehicle that is lawfully towed is responsible for paying the  
27 towing, impound, and storage fees incurred by the tow truck business in

1 towing, impounding and storing such vehicle in order to obtain its release;  
2 provided, *however*, that if the tow truck business has failed to comply with  
3 the requirements of Subsection (a)(3) of this Section, all such fees *shall* be  
4 forfeited, and the vehicle *shall* be delivered to said legal owner, registered  
5 owner, or lienholder immediately upon demand. Any tow truck business or  
6 other person responsible for or authorizing the towing, impounding or  
7 storage of a vehicle relative to this Section, but failing to comply with  
8 Subsection (a)(3) of this Section *shall* be guilty of a misdemeanor, and *shall*  
9 be liable to the legal owner, registered owner, insurer or lienholder, where  
10 applicable, of said vehicle for an amount equal to three (3) times the  
11 damages incurred by them as a consequence of said failure, together with  
12 their costs of the suit and reasonable attorneys' fees.

13 (c) A tow truck business which has towed a vehicle *shall* be liable  
14 for the cost of repair or replacement, as applicable, of the vehicle if the  
15 vehicle is damaged, destroyed or lost while in the custody of such tow truck  
16 business. Such tow truck business *shall not* be responsible for damage that  
17 occurred prior to the time of towing and documented by the vehicle  
18 condition report required by Subsection (a)(1) of this Section.”

19 **Section 6. Tow Truck and Impound Regulation; Rates.** §12106 of  
20 Chapter 12, Title 16, Guam Code Annotated, is hereby *amended* to read:

21 “§ 12106. **Tow Truck and Impound Regulation; Rates.** The  
22 Director of the Department of Revenue and Taxation *shall* promulgate, in  
23 accordance with the Administrative Adjudication Law, rules and regulations:

24 (a) establishing maximum rates tow truck businesses *may*  
25 charge for the towing of vehicles that are towed and taken into  
26 possession for impound or storage by a tow truck business, including,  
27 without limitation, vehicles towed in response to:

- 1 (1) a peace officer dispatch call;  
2 (2) a Motor Vehicle Division call; and  
3 (3) any other call where the legal owner, registered  
4 owner, insurance company, and lienholder of the vehicle has  
5 *not* consented to removal of his vehicle.

6 (b) establishing maximum rates impound yards *may* charge  
7 for the storage of vehicles towed and taken into possession for  
8 impound or storage by a tow truck business including, without  
9 limitation, vehicles towed as a result of:

- 10 (1) a peace officer dispatch call;  
11 (2) a Motor Vehicle Division call; and  
12 (3) any other call where the legal owner, registered  
13 owner, insurance company, and lienholder of the vehicle has  
14 not consented to the storage of his vehicle.

15 (c) establishing procedures or requirements for clearances  
16 and licensing of impoundment and storage facilities.

17 (d) establishing any other procedures or requirements that  
18 the Director deems appropriate to ensure that tow truck businesses are  
19 operated efficiently and safely, and to ensure that residents are  
20 provided with adequate tow truck services. Such regulations *shall*  
21 provide for the suspension or termination of tow truck driver's licenses  
22 of individual tow truck drivers and for the suspension or termination  
23 of the business licenses of tow truck businesses when the Director  
24 finds either such individuals or businesses in substantial  
25 noncompliance with the regulations promulgated pursuant to this  
26 Section.”



1           **Section 7. Lien on Towed Vehicles; Lien Holders' Sale.** §12107 of  
2 Chapter 12, Title 16, Guam Code Annotated, is hereby *amended* to read:

3           “§ 12107. **Lien on Towed Vehicles; Lien Holders' Sale.**

4           (a) Notwithstanding any other provision of law, *unless* a  
5 vehicle is impounded under §3606 of Article 6, Chapter 3 of this Title  
6 16, every tow truck business which tows a vehicle and to which the  
7 requirements of §12104 of this Chapter apply and are complied with  
8 by such tow truck business, while lawfully in possession of the  
9 vehicle, has a lien thereon, dependent upon possession, for the  
10 compensation, if any, which is due it.

11           (b) Notwithstanding any other provision of law, §39106 of  
12 Title 18, Guam Code Annotated, concerning a lien in excess of Three  
13 Hundred Dollars (\$300), *shall not* apply to tow truck services  
14 rendered to vehicles towed and taken into possession for impound or  
15 storage by a tow truck business, including, without limitation, tow  
16 truck services provided in response to a peace officer dispatch call; a  
17 Motor Vehicle Division call; and any other call where the legal owner,  
18 registered owner, insurance company, or lienholder, where applicable,  
19 of the vehicle has *not* consented to such tow truck services.”

20           **Section 8. Severability.** *If* any provision of this Act or its application to  
21 any person or circumstance is found to be invalid or contrary to law, such  
22 invalidity *shall* not affect other provisions or applications of this Act which can be  
23 given effect without the invalid provisions or application, and to this end the  
24 provisions of this Act are severable.

25           **Section 9.** This Act *shall* be effective one hundred twenty (120) days after  
26 enactment. DRT *shall* issue notices to all towing companies licensed on Guam  
27 within thirty (30) days of enactment, and *shall* deliver to the Speaker of *I*

- 1 *Liheslaturan Guåhan* (the Guam Legislature) a list of the towing companies that
- 2 were sent notices of this law, and copies of said notice.