



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

OFFICE OF THE GOVERNOR

Jan 2, 1997
4:30 pm
P. Roberts
P. Roberts

JAN 02 1997

The Honorable Don Parkinson
Speaker
Twenty-Third Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910


RECEIVED
LEGISLATIVE SECRETARY

Dear Mr. Speaker:

Enclosed please find a copy of Substitute Bill No. 465 (LS), "AN ACT TO ADD A NEW CHAPTER 12 TO TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO REGULATING THE TOWING INDUSTRY", which I have signed into law today as **Public Law No. 23-144**.

A copy of Governor's message and copy of the public law have been delivered to the Office of the Legislative Secretary.

Very truly yours,


Carl T. C. Gutierrez
Governor of Guam

Attachment
23-144



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

JAN 02 1997

The Honorable Hope A. Cristobal
Acting Legislative Secretary
Twenty-Third Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910


OFFICE OF THE LEGISLATIVE SECRETARY
ACKNOWLEDGMENT RECEIPT
Received By Monica C.
Time 5:25 pm
Date Jan 97

Dear Madame Legislative Secretary:

Enclosed please find a copy of Governor's message and Substitute Bill No. 465 (LS), "AN ACT TO ADD A NEW CHAPTER 12 TO TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO REGULATING THE TOWING INDUSTRY", which I have signed into law today as **Public Law No. 23-144**.

Governor's message and copy of the public law have been delivered to the Office of the Speaker.

Very truly yours,


Carl T. C. Gutierrez
Governor of Guam
23-639
Attachments

TWENTY-THIRD GUAM LEGISLATURE
1996 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 465 (LS), "AN ACT TO ADD A NEW CHAPTER 12 TO TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO REGULATING THE TOWING INDUSTRY," was on the 23rd day of December, 1996, duly and regularly passed.



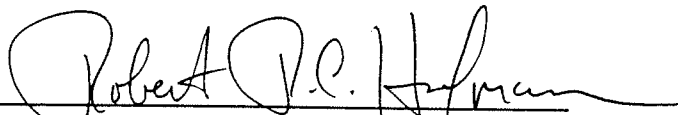
DON PARKINSON
Speaker

Attested:



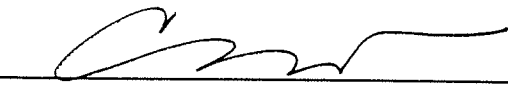
SONNY LUJAN ORSINI
Senator and Legislative Secretary, Acting

This Act was received by the Governor this 23rd day of December,
1996, at 4:55 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:



CARL T. C. GUTIERREZ
Governor of Guam

Date: 1-2-97

Public Law No. 23-144

TWENTY-THIRD GUAM LEGISLATURE
1996 (SECOND) REGULAR SESSION

Bill No. 465 (LS)
As substituted by the Author

Introduced by:

M. C. Charfauros
A. L. G. Santos
S. L. Orsini

AN ACT TO ADD A NEW CHAPTER 12 TO TITLE 16,
GUAM CODE ANNOTATED, RELATIVE TO
REGULATING THE TOWING INDUSTRY.

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

2 **Section 1. Short title.** This chapter is known as the "Tow Truck and
3 Impound Regulation Act."

4 **Section 2. Legislative Findings and Intent.** The Legislature finds that
5 the towing industry has had the freedom to operate without any type of rate
6 regulation for many years. The Legislature finds that the lack of rate
7 regulation has allowed certain companies to charge unfair rates in certain
8 situations. The Legislature further finds that safety issues regarding the
9 operation of tow trucks must be addressed through proper regulation and
10 control. It is the intent of this Legislature to regulate the towing industry by
11 mandating the establishment of maximum rates such businesses may charge
12 in certain situations. It is also the intent of this Legislature to address safety
13 issues regarding the operation of tow trucks through the establishment and
14 regulation of license and inspection procedures.

1 . Section 3. A new Chapter 12 is added to Title 16, Guam Code
2 Annotated, to read as follows:

3 "Chapter 12

4 Tow Trucks

5 §12101. Definitions.

6 §12102. Business Requirements.

7 §12103. Department of Revenue and Taxation duties.

8 §12104. Notice Requirements.

9 §12105. Tow Truck Advisory Board.

10 §12106. Tow Truck and Impound Regulation; Rates.

11 §12107. Lien on towed vehicles; Lien holders' sale.

12 §12108. Prohibitions.

13 §12101. Definitions. As used in this Chapter:

14 (1) "Director" means the Director of the Department of Revenue and
15 Taxation.

16 (2) "Lien," as defined in §35101 of Title 18, Guam Code Annotated,
17 means a charge imposed in some mode other than by a transfer in trust upon
18 specific property by which it is made security for the performance of an act.

19 (3) "Tow truck" means a motor vehicle constructed, designed, altered,
20 or equipped primarily for the purpose of towing or removing vehicles from a
21 highway by means of a crane, hoist, tow bar, tow line, dolly, sling, wheel-lift,
22 flatbed or other means as approved by the Division of Motor Vehicles of the
23 Department of Revenue and Taxation.

24 (4) "Tow truck business" means an enterprise that provides tow truck
25 services.

1 (5) "Tow truck service" means the recovery of a vehicle or the
2 transportation on a highway of damaged, disabled, abandoned, seized, or
3 impounded vehicles by a tow truck.

4 **§12102. Tow truck business requirements.** A person who operates a tow
5 truck business shall: (1) comply with equipment requirements under §12103
6 of this Chapter;

7 (2) ensure that all his tow truck drivers are properly:

8 (a) trained to operate tow truck equipment; and

9 (b) licensed, as required under Article 1, Chapter 3, of this Title;

10 and

11 (3) obtain and display a current certificate of inspection for each tow
12 truck, as required under §12103 of this Chapter.

13 (4) obtain a service license as required by §16200 of the Government
14 Code of Guam pertaining to the issuance of a business license.

15 **§12103. Department of Revenue and Taxation duties; Inspections;
16 Equipment requirements; Rule making.**

17 (1) (a) The Department of Revenue and Taxation shall conduct
18 inspections of tow trucks to ensure compliance with the Federal Motor
19 Carrier Safety Regulations and the provisions of this chapter.

20 (b) Each inspection of a tow truck shall be conducted prior to the
21 tow truck beginning operation and at least every quarter thereafter.

22 (c) (i) The Department of Revenue and Taxation shall issue a
23 certificate of inspection for each tow truck that complies with the
24 provisions of this article.

1 (ii) The inspection certificate shall expire one quarter from
2 the month of issuance.

3 (d) The Department of Revenue and Taxation may charge a fee
4 to cover the cost of the inspection required under this section, subject to
5 the Administrative Adjudication Act,

6 (2) The Department of Revenue and Taxation shall promulgate rules
7 specifying the equipment required to be carried on each tow truck, including
8 limits on loads that may be moved based on equipment capacity and load
9 weight. The rules shall be adopted in conformance with the Administrative
10 Adjudication Act.

11 **§12104. Towing notice requirements; Cost responsibilities.** (1) Unless a
12 vehicle is impounded under §3606 of this Title, after performing a tow truck
13 service without the vehicle owner's knowledge, the person operating the tow
14 truck shall:

15 (a) within one hour of arriving at the place of storage or impound of
16 the vehicle, contact the law enforcement agency having jurisdiction over the
17 area where the vehicle was picked-up and notify the agency of the:

18 (i) location of the vehicle;

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

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

22 (iv) person who requested the removal of the vehicle; and

23 (v) vehicle's description, including its identification number
24 and license number; and

1 (b) within five days of performing the tow truck service, send a certified
2 letter to the last known address of the registered owner of the vehicle
3 obtained from the Division of Motor Vehicles or if the person has actual
4 knowledge of the owner's address to the current address, notifying him of
5 the:

6 (i) location of vehicle;

7 (ii) date, time, location from which the vehicle was
8 removed;

9 (iii) reasons for the removal of the vehicle;

10 (iv) person who requested the removal of the vehicle;

11 (v) vehicle's description, including its identification number
12 and license number; and

13 (vi) costs and procedures to retrieve the vehicle.

14 (c) For purposes of this Section, the Division of Motor Vehicles shall,
15 upon the presentation of official documents (Guam Police Report or
16 Department of Revenue and Taxation Directive), provide tow truck
17 businesses with the last known address of the registered owner of the vehicle
18 in question. The tow truck business shall furnish the Division of Motor
19 Vehicles with a copy of the notice sent pursuant to Subsection (b) above within
20 five days after the release of the registered owner's address.

21 (2) The registered owner of a vehicle lawfully removed is responsible
22 for paying the towing, impound, and storage fees, unless the vehicle was
23 stolen or taken without the consent of the owner in which case the parties
24 responsible for such actions shall be liable for the cost incurred in removal of
25 said vehicle.

1 **§12105. Tow truck advisory board.** (1) The Director shall appoint a tow
2 truck advisory board consisting of not less than seven nor more than nine
3 members who shall serve for a term of three years. The membership of the
4 board shall include, but need not be limited to, representatives of the tow
5 truck industry, motor or automobile club industry, the automobile rental and
6 leasing association, law enforcement agencies, and local government
7 consumer protection agencies, and a representative of the Guam Claims
8 Association. The Director shall select from among the members a chairman,
9 who shall serve as such for a period of two years. Members of the board shall
10 not be compensated, but shall be allowed their actual and necessary expenses
11 incurred in the performance of their duties. The board shall meet at least
12 twice annually.

13 (2) The board shall advise the Director on matters regarding tow truck
14 safety and operations, including but not limited to, developing standards for
15 licensure and inspection of tow trucks and requirements and qualifications for
16 drivers thereof. In addition, the board shall advise the Director on matters
17 relating to the establishment of maximum rates pursuant to §12107 of this
18 Article.

19 **§12106. Tow truck and Impound Regulation; Rates.** The Director of the
20 Department of Revenue and Taxation shall promulgate, in accordance with
21 the Administrative Adjudication Law, rules and regulations:

22 (1) (a) establishing maximum rates tow truck businesses may charge for
23 the towing of vehicles that are transported in response to:

24 (i) a peace officer dispatch call;

25 (ii) a Motor Vehicle Division call; and

1 (iii) any other call where the owner of the vehicle has not
2 consented to removal of his vehicle.

3 (b) establishing maximum rates impound yards may charge for the
4 storage of vehicles stored as a result of:

5 (i) a peace officer dispatch call;

6 (ii) a Motor Vehicle Division call; and

7 (iii) any other call where the owner of the vehicle has not
8 consented to the storage of his vehicle.

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

11 (d) establishing any other procedures or requirements that the Director
12 deems appropriate to ensure that tow truck businesses are operated
13 efficiently and safely and to ensure that residents are provided with adequate
14 tow truck service. Such regulations shall provide for the suspension or
15 termination of tow truck driver's licenses of individual tow truck drivers and
16 for the suspension or termination of the business licenses of tow truck
17 companies when the Director finds either such individuals or companies in
18 substantial noncompliance with the regulations promulgated pursuant to this
19 Section.

20 **§12107. Lien on towed vehicles; Lien holders' sale. (1)**
21 Notwithstanding any other provision of law, unless a vehicle is impounded
22 under §3606 of this Title, every tow truck business, who, while lawfully in
23 possession of a vehicle renders towing, impound, and/or storage services in
24 response to a peace officer dispatch call; a Motor Vehicle Division call; and
25 any other call where the owner of the vehicle has not consented to removal of

1 his vehicle; has a lien thereon, dependent upon possession, for the
2 compensation, if any, which is due him from the owner for such service. If
3 there is a prior lien on said vehicle the tow truck business may record a second
4 lien on said vehicle. Any tow truck business may retain possession of the same
5 until the charges are paid.

6 (2) Notwithstanding any other provision of law, §39106 of Title 18,
7 Guam Code Annotated, concerning a lien in excess of Three Hundred Dollars
8 (\$300), shall not apply to towing, impound, and/or storage services provided
9 in response to a peace officer dispatch call; a Motor Vehicle Division call; and
10 any other call where the owner of the vehicle has not consented to removal of
11 his vehicle; provided that notice requirements are administered pursuant to
12 §12104 of this Title.

13 (3) If the tow truck business entitled to the lien on a vehicle provided in
14 Subsection (1) of this Section is not paid the amount due, then such lien holder
15 may proceed to sell said vehicle to satisfy the lien and costs of sale at public
16 auction. This Subsection is not applicable until sixty (60) days after notice has
17 been sent pursuant to §12104 of this Title. Under the provisions of this
18 Subsection, the tow truck business shall give at least ten days' previous notice
19 of such sale by posting notice of sale in three public places in the town or place
20 where such property is to be sold, for ten days previous to the date of the sale,
21 and by serving personal notice upon the owner.

22 **§12108. Prohibitions.** (1) It is a misdemeanor for the owner or operator
23 of a tow truck to stop at the scene of an accident for the purpose of soliciting
24 an engagement for towing services, either directly or indirectly, or to furnish
25 any towing services, unless summoned to the scene, requested to stop, or

1 flagged down by the owner or operator of a disabled vehicle or requested to
2 perform the service by a law enforcement officer or public agency pursuant to
3 that agency's procedures.

4 (2) It is a misdemeanor for the owner or operator of a tow truck to
5 move any vehicle from a highway, street, or public property without the
6 express authorization of the owner or operator of the vehicle or a law
7 enforcement officer or public agency pursuant to that agency's procedures,
8 when the vehicle has been left unattended or when there is an injury as the
9 result of an accident.

10 (3) This section shall not apply to the following:

11 (a) A vehicle owned or operated by, or under contract to, a motor
12 club, which stops to provide services for which compensation is neither
13 requested nor received, provided that those services may not include
14 towing other than that which may be necessary to remove the vehicle to
15 the nearest safe shoulder. The owner or operator of such a vehicle may
16 contact a law enforcement agency or other public agency on behalf of a
17 motorist, but may not refer a motorist to a tow truck owner or
18 operator, unless the motorist is a member of the motor club, the
19 motorist is referred to a tow truck owner or operator under contract to
20 the motor club, and, if there is a dispatch facility which services the area
21 and is owned or operated by the motor club, the referral is made
22 through that dispatch facility.

23 (b) A tow truck operator employed by a law enforcement agency
24 or other public agency.

1 (c) A tow truck owner or operator acting under contract with a
2 law enforcement or other public agency to abate abandoned vehicles, or
3 to provide towing service, to the extent authorized by law.

4 (4) It is a misdemeanor for an owner or operator of a tow truck to store
5 vehicles on lots other than duly licensed impound lots or storage lots certified,
6 approved and licensed by the Division of Motor Vehicles of the Department
7 of Revenue and Taxation. This prohibition shall not apply to vehicles stored
8 on private non-commercial property at the direction of the owner of the
9 vehicle and with the consent of the property owner.

10 **§12109. Promulgation of Rules and Regulations.** The Department of
11 Revenue and Taxation shall promulgate rules and regulations necessary to
12 carry out the provisions of this Act within one-hundred eighty (180) days after
13 its enactment."

14 **Section 4. Effective Date.** This Act shall become effective upon
15 approval of the rules and regulations required herein.

PL 23-144

✓

Senator Mark C. Charfauros

Chairman

Committee on Judiciary, Criminal Justice, and Environmental Affairs Twenty-Third Guam Legislature

Ada's Commercial and Professional Center
138 East Marine Drive, Suite 101C-Annex
Agana, Guam 96910

Tel: (671) 472-3342/3/5
Fax: (671) 472-3440
E-Mail: markchar@uog9.uog.edu

November 25, 1996

SPEAKER DON PARKINSON
Twenty-Third Guam Legislature
155 Hesler St.
Agana, Guam 96910

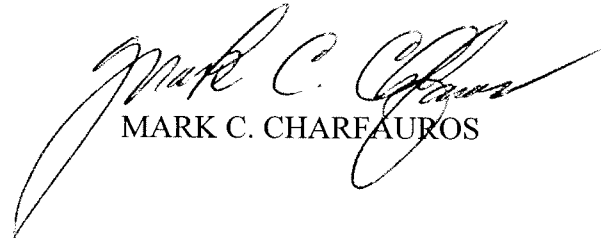
Dear Mr. Speaker:

The Committee on Judiciary, Criminal Justice and Environmental Affairs to which was referred **Bill No. 465**, wishes to report back to the Legislature with its recommendation **TO DO PASS Bill No. 465 As further substituted by the Author**, "AN ACT TO ADD A NEW CHAPTER 12 TO TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO REGULATING THE TOWING INDUSTRY." The voting record is as follows:

TO PASS	<u>9</u>
NOT TO PASS	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are attached.

Your attention to this matter is greatly appreciated.



MARK C. CHARFAUROS

Attachments.

Senator Mark C. Charfauros

Chairman

Committee on Judiciary, Criminal Justice, and Environmental Affairs Twenty-Third Guam Legislature

Ada's Commercial and Professional Center
138 East Marine Drive, Suite 101C-Annex
Agana, Guam 96910

Tel: (671) 472-3342/3/5
Fax: (671) 472-3440
E-Mail: markchar@uog9.uog.edu

October 21, 1996

MEMORANDUM

TO: Members

FROM: Chairman

SUBJECT: Committee Report - **Bill No. 465 As further substituted by the Author**, "AN ACT TO ADD A NEW CHAPTER 12 TO TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO REGULATING THE TOWING INDUSTRY."

Transmitted herewith for your information and action is the Committee on Judiciary, Criminal Justice and Environmental Affairs' Report on the subject Bill.

The narrative report is accompanied by the following:

1. Original Bill 465; Bill 465 As substituted by the Author; Bill 465 As further substituted by the Author;
2. Committee Voting Sheet;
3. Testimony and Sign-in Sheet
4. Public Hearing Notice.

Should you have any questions on the narrative report or the accompanying documents, I would be most happy to answer any of them.

Please take the appropriate action on the attached voting sheet and return the documents to my office for transmittal to the other members.

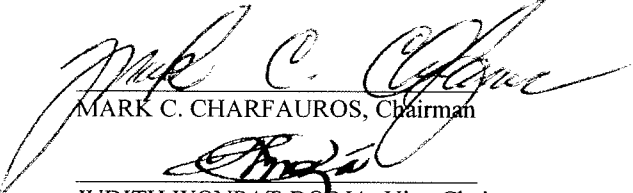
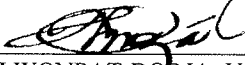

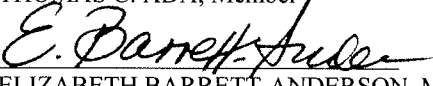
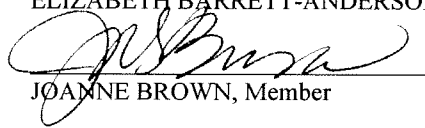
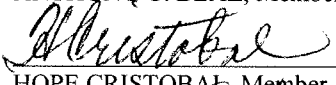
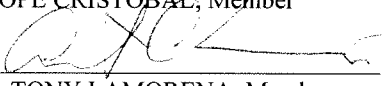


Your attention and cooperation in this matter is greatly appreciated.


MARK C. CHARFAUROS

Attachments.

**COMMITTEE ON JUDICIARY, CRIMINAL JUSTICE AND
ENVIRONMENTAL AFFAIRS
23rd Guam Legislature
VOTING RECORD**

Bill No. 465 As further substituted by the Author, "AN ACT TO ADD A NEW CHAPTER 12 TO TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO REGULATING THE TOWING INDUSTRY."

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>INACTIVE FILE</u>
 MARK C. CHARFAUROS, Chairman	✓	—	—	—
 JUDITH WONPAT-BORJA, Vice-Chairperson	✓	—	—	—
 THOMAS C. ADA, Member	✓	—	—	—
 ELIZABETH BARRETT-ANDERSON, Member	✓	—	—	—
 JOANNE BROWN, Member	✓	—	—	—
ANTHONY C. BLAZ, Member	—	—	—	—
 HOPE CRISTOBAL, Member	✓	—	—	—
 A. TONY LAMORENA, Member	✓	—	—	—
 LOU LEON GUERRERO, Member	✓	—	—	—
TED S. NELSON, Member	—	—	—	—
 VICENTE C. PANGELINAN, Member	✓	—	—	—
ANGEL L.G. SANTOS, Member	—	—	—	—
FELIX P. CAMACHO, Member	—	—	—	—
DON PARKINSON, Ex-Officio Member	—	—	—	—

COMMITTEE ON JUDICIARY, CRIMINAL
JUSTICE AND ENVIRONMENTAL
AFFAIRS

Twenty-Third Guam Legislature

COMMITTEE REPORT

on

Bill No. 465

As further substituted by the Author

“AN ACT TO ADD A NEW CHAPTER 12 TO TITLE 16, GUAM CODE ANNOTATED,
RELATIVE TO REGULATING THE TOWING INDUSTRY.”

May 14, 1996

I. OVERVIEW

The Committee on Judiciary, Criminal Justice and Environmental Affairs scheduled a public hearing on May 14, 1996 at 9:30 a.m. at the Legislative Public Hearing Room. Public notice was announced on the May 13, 1996 issue of the PDN.

Members present were:

Senator Mark C. Charfauros, Chairman
Senator Judith WonPat-Borja
Senator Lou Leon Guerrero
Senator Alberto Lamorena
Senator Joanne Brown
Senator Tony Blaz

Appearing before the Committee to testify on the bill were:

Phil Tydingco, Legal Counsel, Guam Police Department, **oral, written.**

Robert A. Teodosio, Auto Club Services of Guam; **oral; written.**

Bob Pearson, on behalf of **Joseph T. Duenas**, Director of Revenue and Taxation; **oral; written.**

Rolando C. Odero, Guam Claims Association, **oral.**

Tony Quitugua, private citizen, **written.**

Virginia Sekine, **written.**

Mark-Up Testimony:

Joseph T. Duenas, Director of Revenue and Taxation, **written, attached.**

II. SUMMARY OF TESTIMONY

The **Chairman**, author of Bill 465, stated that the Bill was created due to complaints received by the Committee from the industry, insurance companies, and the general public. The Chairman stated that numerous meetings with the towing industry and the Guam Police Department has resulted in several amendments to the original Bill 465.

Phil Tydingco, Legal Counsel, Guam Police Department, testified in support of Bill 465 on behalf of Chief of Police Jack S. Shimizu; **oral, written, attached.**

Robert A. Teodosio, Auto Club Services of Guam, testified in support of Bill 465; **oral; written; attached.**

Bob Pearson, on behalf of **Joseph T. Duenas**, Director of Revenue and Taxation, testified in support of Bill 465; **oral; written; attached.**

The **Chairman** stated that a **Mark-Up meeting** would be conducted on the Bill to address needed amendments suggested at the hearing. He further stated that the Department of Revenue and Taxation would be invited to participate in the meeting.

Senator Brown stated that she has also received complaints regarding unfair or excessive charges for towing services. She commended the Chairman for introducing the Bill, and stated that the Committee should work together with the Department of Revenue and Taxation to resolve some of the issues mentioned. She stated that overall, the Bill is a simple solution to addressing and resolving the problems existing in the industry.

Senator Tony Blaz stated that he supports the legislation. He stated that he had similar legislation, but he is glad that the Chairman introduced Bill 465, and offered to be a co-sponsor of the Bill. He stated that there have been numerous problems within the Guam Police Department and the towing industry regarding the storage of vehicles. He stated that there has not been any mechanism until this Bill has been introduced to dispose of vehicles properly. He further commended the industry representatives present at the hearing whom are willing to participate in the reform of the industry. He concluded that the Bill is really good, and a big step in the right direction to help resolve some of the problems in the industry.

Senator Won Pat-Borja inquired about the Section which would prohibit the towing of vehicles by any vehicle other than a tow truck. The **Chairman** stated that the Section was recommended by the industry because of safety issues, but stated that the Committee is willing to amend the Section if necessary. **Senator Lamorena** stated that he questioned whether the Section is needed. He stated that he has personally towed vehicles in the past, taking safety precautions in such tows. He stated that restricting the right of citizens to tow vehicles is unnecessary. He further stated that maybe the Bill can address safety issues or standards individuals must follow when personally towing a vehicle, instead of outlawing such tows. He stated that the Advisory Board should create a list of all the tow truck companies, their rates and the corresponding insurance companies that cover their tows. He stated that the list should be provided to individuals in order to assist them in making a decision regarding which tow company to call.

Senator Lou Leon Guerrero asked Attorney Tydingco whether GPD has contracts with towing companies for criminal, but non-injury accidents. **Tydingco** responded positively.

Rolando C. Otero, Guam Claims Association, testified in support of the passage of Bill 465. He stated that he has concerns with the impoundment of vehicles. He stated that he agrees with testimony earlier that the license plate be confiscated and the vehicle released. He stated again that he supports the passage of Bill 465; **oral**.

Tony Quitugua, testifying as a private individual, supports the Bill. He stated that he agreed with Senator Lamorena regarding the Section prohibiting tows by private individuals. He further stated that he supports the deletion of the Section. Finally, in response to an inquiry from Senator Won Pat-Borja, he stated that he believes that the Advisory Board should include insurance representatives whom are not members of the Guam Claims Association. Mr. Quitugua further stated problems with obtaining a stolen vehicle from GPD which has been recovered. He stated that the private citizen should not be held responsible for a vehicle which was held by GPD for an extensive period of time. He stated that GPD's CIC is often too busy to expedite the release of stolen vehicles.; **oral; written; attached**.

Virginia Sekine, testified on Bill 465, **written; attached**.

The **Chairman** stated that the ability to establish rules and regulations could address many of the specific problems stated in the hearing. He further stated that the prohibition of tows by individuals other than tow truck companies was not part of the original Bill. He stated that the tow truck industry and GPD recommended such a Section for safety reasons only. He stated that the Section was not intended to restrict individual rights. He further stated that it would be up to the Committee to decide whether or not to keep the Section.

Finally, **Mr. Otero** suggested that a bank representative also be included in the Advisory Board, considering their interest in the industry.

The **Chairman** concluded by stating that a mark-up meeting on the Bill would be conducted, and all parties would be invited to participate.

Mark-Up testimony:

Notice was sent to the industry and others affected by the legislation, requesting for additional testimony or concerns.

Several industry representatives responded with minor amendments and concerns.

Joseph T. Duenas, Director of Revenue and Taxation, submitted written testimony suggesting further amendments to Bill 465, **written, attached**.

III. FINDING AND RECOMMENDATION

The Committee finds that the towing industry has had the freedom to operate without any type of rate regulation for many years. The lack of rate regulation has allowed companies to charge unfair rates to consumers in vulnerable situations. Such situations include incidents when a vehicle is towed without the knowledge of its owner, or without the owner's consent. In effect, certain companies have taken advantage of the consumer, and have used the lack of rate regulation to charge excessive fees.

The Committee finds that consumers have made it clear that the industry needs some type of regulation. Bill 465 would regulate the towing industry by mandating the establishment of maximum rates tow truck businesses may charge for certain services in certain situations. The mechanism for establishing the maximum rates would be through the Department of Revenue and Taxation, with the assistance of a Tow Truck Advisory Board. Bill 465 would also address safety issues through the establishment of license and inspection procedures. Finally, Bill 465 would establish needed control over impound and storage lots by providing for license procedures and penalties for non-compliance. In addition, at the request of the industry, certain provisions would provide penalties for the unethical behavior of tow truck businesses.

Accordingly, the Committee on Judiciary, Criminal Justice and Environmental Affairs, to which was referred **Bill No. 465**, does hereby submit its findings and recommendation to the Twenty-Third Guam Legislature **TO DO PASS Bill No. 465 As further substituted by the Author**, "AN ACT TO ADD A NEW CHAPTER 12 TO TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO REGULATING THE TOWING INDUSTRY."

RECEIVED
JAN 03 1996



COMMITTEE ON RULES

Twenty-Third Guam Legislature
155 Hesler St., Agana, Guam 96910

Senator C
Tom - for appropriate
action.

January 2, 1996

MEMORANDUM

TO: Chairman, Committee on Judiciary, Criminal Justice
and Environmental Affairs

FROM: Chairman, Committee on Rules

SUBJECT: Referral - Bill No. 465

The above Bill is referred to your Committee as the principal committee. Please note that the referral is subject to ratification by the Committee on Rules at its next meeting. It is recommended you schedule a public hearing at your earliest convenience.


SONNY LUJAN ORSINI

Attachment:

**TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) REGULAR SESSION**

Bill No. 465

Introduced by:

M.C. Charfauros
A.L.G. Santos
S.L. Orsini

**AN ACT TO ADD A NEW CHAPTER 12 TO TITLE 16, GUAM CODE ANNOTATED,
RELATIVE TO REGULATING THE TOWING INDUSTRY.**

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

2 **Section 1. Short title.** This chapter is known as the "Tow Truck and Impound
3 Regulation Act."

4 **Section 2. Legislative Findings and Intent.** The Legislature finds that the towing
5 industry has had the freedom to operate without any type of regulation for many years. The
6 Legislature finds that the lack of regulation has allowed certain companies to charge unfair
7 rates in certain situations. The Legislature further finds that safety issues regarding the
8 operation of tow trucks must be addressed through proper regulation and control. It is the
9 intent of this Legislature to regulate the towing industry by mandating the establishment of
10 maximum rates such businesses may charge in certain situations. It is also the intent of this
11 Legislature to address safety issues regarding the operation of tow trucks through the
12 establishment and regulation of license and inspection procedures.

13 **Section 3. A new Chapter 12 is added to Title 16 GCA to read as follows:**

14 "Chapter 12

15 Tow Trucks

16 **§12101. Definitions.**

17 **§12102. Business Requirements**

18 **§12103. Duties**

19 **§12104. Notice Requirements**

20 **§12101. Definitions.** As used in this Chapter:

1 (1) "Tow truck" means a motor vehicle constructed, designed, altered, or equipped
2 primarily for the purpose of towing or removing vehicles from a highway by means of a crane,
3 hoist, tow bar, tow line, dolly, or other means.

4 (2) "Tow truck business" means an enterprise that provides tow truck services.

5 (3) "Tow truck service" means the transportation on a highway of damaged, disabled,
6 abandoned, seized, or impounded vehicles by a tow truck.

7 **§12102. Tow truck business requirements.** A person who operates a tow truck
8 business shall: (1) comply with equipment requirements under §12103 of this Chapter;

9 (2) ensure that all his tow truck drivers are properly:

10 (a) trained to operate tow truck equipment; and

11 (b) licensed, as required under Article 1, Chapter 3, of this Title; and

12 (3) obtain and display a current certificate of inspection for each tow truck, as required
13 under §12103 of this Chapter.

14 **§12103. Department of Revenue and Taxation duties; Inspections; Equipment**
15 **requirements; Rulemaking.**

16 (1) (a) The Department of Revenue and Taxation shall conduct inspections of tow
17 trucks to ensure compliance with the provisions of this chapter.

18 (b) Each inspection of a tow truck shall be conducted prior to the tow truck
19 beginning operation and at least every year thereafter.

20 (c) (i) The Department of Revenue and Taxation shall issue a certificate of
21 inspection for each tow truck that complies with the provisions of this article.

22 (ii) The inspection certificate shall expire one year from the month of issuance.

23 (d) The Department of Revenue and Taxation may charge a fee to cover the cost
24 of the inspection required under this section, subject to the Administrative Adjudication Act,

25 (2) The Department of Revenue and Taxation shall promulgate rules specifying the
26 equipment required to be carried on each tow truck, including limits on loads that may be
27 moved based on equipment capacity and load weight. The rules shall be adopted in

1 conformance with the Administrative Adjudication Act.

2 **§12104. Towing notice requirements; Cost responsibilities; Abandoned vehicle**
3 **title restrictions.** (1) Unless a vehicle is impounded under §18112 of this Title, after
4 performing a tow truck service without the vehicle owner's knowledge, the person operating
5 the tow truck shall:

6 (a) within one hour of arriving at the place of storage or impound of the vehicle,
7 contact the law enforcement agency having jurisdiction over the area where the vehicle was
8 picked-up and notify the agency of the:

9 (i) location of the vehicle;

10 (ii) date, time, and location from which the vehicle was removed;

11 (iii) reasons for the removal of the vehicle;

12 (iv) person who requested the removal of the vehicle; and

13 (v) vehicle's description, including its identification number and license number;

14 and

15 (b) within five days of performing the tow truck service, send a certified letter to
16 the last known address of the registered owner of the vehicle obtained from the Division of
17 Motor Vehicles or if the person has actual knowledge of the owner's address to the current
18 address, notifying him of the:

19 (i) location of vehicle;

20 (ii) date, time, location from which the vehicle was removed;

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

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

23 (v) vehicle's description, including its identification number and license number;

24 and

25 (vi) costs and procedures to retrieve the vehicle.

26 (2) The registered owner of a vehicle lawfully removed is responsible for paying the
27 towing, impound, and storage fees.

1 (3) Towing, impound, and storage fees are a lien on the vehicle until paid.

2 (4) A person may not request a transfer of title to an abandoned vehicle until at least
3 30 days after notice has been sent under Subsection (1)(b).

4 **§12105. Tow Truck and Impound Regulation; Rates.** The Director of the
5 Department of Revenue and Taxation shall promulgate, in accordance with the Administrative
6 Adjudication Law, rules and regulations:

7 (1) (a) establishing maximum rates tow truck businesses may charge for the towing of
8 vehicles that are transported in response to:

9 (i) a peace officer dispatch call;

10 (ii) a Motor Vehicle Division call; and

11 (iii) any other call where the owner of the vehicle has not consented to removal
12 of his vehicle.

13 (b) establishing maximum rates impound yards may charge for the storage of
14 vehicles stored as a result of:

15 (i) a peace officer dispatch call;

16 (ii) a Motor Vehicle Division call; and

17 (iii) any other call where the owner of the vehicle has not consented to the
18 storage of his vehicle.

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

26 **Section 4. Effective Date.** This Act shall become effective sixty (60) after its
27 enactment.

**TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) REGULAR SESSION**

Bill No. 465

As substituted by the Author

Introduced by:

M.C. Charfauros

A.L.G. Santos

S. L. Orsini

**AN ACT TO ADD A NEW CHAPTER 12 TO TITLE 16, GUAM CODE
ANNOTATED, RELATIVE TO REGULATING THE TOWING INDUSTRY.**

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

2 **Section 1. Short title.** This chapter is known as the "Tow Truck and Impound
3 Regulation Act."

4 **Section 2. Legislative Findings and Intent.** The Legislature finds that the towing
5 industry has had the freedom to operate without any type of rate regulation for many years.
6 The Legislature finds that the lack of rate regulation has allowed certain companies to charge
7 unfair rates in certain situations. The Legislature further finds that safety issues regarding
8 the operation of tow trucks must be addressed through proper regulation and control. It is
9 the intent of this Legislature to regulate the towing industry by mandating the establishment
10 of maximum rates such businesses may charge in certain situations. It is also the intent of
11 this Legislature to address safety issues regarding the operation of tow trucks through the
12 establishment and regulation of license and inspection procedures.

13 **Section 3. A new Chapter 12 is added to Title 16 GCA to read as follows:**

14 "Chapter 12

15 Tow Trucks

16 §12101. Definitions.

17 §12102. Business Requirements.

18 §12103. Department of Revenue and Taxation duties.

19 §12104. Notice Requirements.

20 §12105. Tow Truck Advisory Board.

21 §12106. Tow Truck and Impound Regulation; Rates.

22 §12107. Lien on towed vehicles; Lien holders' sale.

23 §12108. Prohibitions.

24 **§12101. Definitions.** As used in this Chapter:

25 (1) "Director" means the Director of the Department of Revenue and Taxation.

26 (2) "Lien," as defined in §35101 of Title 18, Guam Code Annotated, means a charge
27 imposed in some mode other than by a transfer in trust upon specific property by which it is

1 made security for the performance of an act.

2 (3) "Tow truck" means a motor vehicle constructed, designed, altered, or equipped
3 primarily for the purpose of towing or removing vehicles from a highway by means of a
4 crane, hoist, tow bar, tow line, dolly, sling, wheel-lift, flatbed or other means.

5 (4) "Tow truck business" means an enterprise that provides tow truck services.

6 (5) "Tow truck service" means the recovery of a vehicle or the transportation on a
7 highway of damaged, disabled, abandoned, seized, or impounded vehicles by a tow truck.

8 **§12102. Tow truck business requirements.** A person who operates a tow truck
9 business shall: (1) comply with equipment requirements under §12103 of this Chapter;

10 (2) ensure that all his tow truck drivers are properly:

11 (a) trained to operate tow truck equipment; and

12 (b) licensed, as required under Article 1, Chapter 3, of this Title; and

13 (3) obtain and display a current certificate of inspection for each tow truck, as
14 required under §12103 of this Chapter.

15 **§12103. Department of Revenue and Taxation duties; Inspections; Equipment**
16 **requirements; Rulemaking.**

17 (1) (a) The Department of Revenue and Taxation shall conduct inspections of tow
18 trucks to ensure compliance with the provisions of this chapter.

19 (b) Each inspection of a tow truck shall be conducted prior to the tow truck
20 beginning operation and at least every year thereafter.

21 (c) (i) The Department of Revenue and Taxation shall issue a certificate of
22 inspection for each tow truck that complies with the provisions of this article.

23 (ii) The inspection certificate shall expire one year from the month of issuance.

24 (d) The Department of Revenue and Taxation may charge a fee to cover the cost
25 of the inspection required under this section, subject to the Administrative Adjudication Act,

26 (2) The Department of Revenue and Taxation shall promulgate rules specifying the
27 equipment required to be carried on each tow truck, including limits on loads that may be
28 moved based on equipment capacity and load weight. The rules shall be adopted in
29 conformance with the Administrative Adjudication Act.

30 **§12104. Towing notice requirements; Cost responsibilities; Abandoned vehicle**
31 **title restrictions.** (1) After performing a tow truck service without the vehicle owner's
32 knowledge, the person operating the tow truck shall:

33 (a) within one hour of arriving at the place of storage or impound of the vehicle,
34 contact the law enforcement agency having jurisdiction over the area where the vehicle was
35 picked-up and notify the agency of the:

36 (i) location of the vehicle;

37 (ii) date, time, and location from which the vehicle was removed;

38 (iii) reasons for the removal of the vehicle;

39 (iv) person who requested the removal of the vehicle; and

40 (v) vehicle's description, including its identification number and license

1 number; and

2 (b) within five days of performing the tow truck service, send a certified letter to
3 the last known address of the registered owner of the vehicle obtained from the Division of
4 Motor Vehicles or if the person has actual knowledge of the owner's address to the current
5 address, notifying him of the:

6 (i) location of vehicle;

7 (ii) date, time, location from which the vehicle was removed;

8 (iii) reasons for the removal of the vehicle;

9 (iv) person who requested the removal of the vehicle;

10 (v) vehicle's description, including its identification number and license
11 number; and

12 (vi) costs and procedures to retrieve the vehicle.

13 (c) For purposes of this Section, the Division of Motor Vehicles shall, upon the
14 presentation of official documents, provide tow truck businesses with the last known address
15 of the registered owner of the vehicle in question.

16 (2) The registered owner of a vehicle lawfully removed is responsible for paying the
17 towing, impound, and storage fees.

18 **§12105. Tow truck advisory board.** (1) The Director shall appoint a tow truck
19 advisory board consisting of not less than seven nor more than nine members who shall serve
20 for a term of three years. The membership of the board shall include, but need not be limited
21 to, representatives of the tow truck industry, motor or automobile club industry, law
22 enforcement agencies, and local government consumer protection agencies, and a
23 representative of the Guam Claims Association. The Director shall select from among the
24 members a chairman, who shall serve as such for a period of two years. Members of the
25 board shall not be compensated, but shall be allowed their actual and necessary expenses
26 incurred in the performance of their duties. The board shall meet at least twice annually.

27 (2) The board shall advise the Director on matters regarding tow truck safety and
28 operations, including but not limited to, developing standards for licensure and inspection
29 of tow trucks and requirements and qualifications for drivers thereof. In addition, the board
30 shall advise the Director on matters relating to the establishment of maximum rates pursuant
31 to §12107 of this Article.

32 **§12106. Tow truck and Impound Regulation; Rates.** The Director of the
33 Department of Revenue and Taxation shall promulgate, in accordance with the Admin-
34 istrative Adjudication Law, rules and regulations:

35 (1) (a) establishing maximum rates tow truck businesses may charge for the towing
36 of vehicles that are transported in response to:

37 (i) a peace officer dispatch call;

38 (ii) a Motor Vehicle Division call; and

39 (iii) any other call where the owner of the vehicle has not consented to removal
40 of his vehicle.

1 (b) establishing maximum rates impound yards may charge for the storage of
2 vehicles stored as a result of:

- 3 (i) a peace officer dispatch call;
4 (ii) a Motor Vehicle Division call; and
5 (iii) any other call where the owner of the vehicle has not consented to the
6 storage of his vehicle.

7 (c) establishing any other procedures or requirements that the Director deems
8 appropriate to ensure that tow truck businesses are operated efficiently and safely and to
9 ensure that residents are provided with adequate tow truck service. Such regulations shall
10 provide for the suspension or termination of tow truck driver's licenses of individual tow
11 truck drivers and for the suspension or termination of the business licenses of tow truck
12 companies when the Director finds either such individuals or companies in substantial
13 noncompliance with the regulations promulgated pursuant to this Section.

14 **§12107. Lien on towed vehicles; Lien holders' sale.** (1) Notwithstanding any other
15 provision of law, every tow truck business, who, while lawfully in possession of a vehicle
16 renders towing, impound, and/or storage services in response to a peace officer dispatch call;
17 a Motor Vehicle Division call; and any other call where the owner of the vehicle has not
18 consented to removal of his vehicle; has a lien thereon, dependent upon possession, for the
19 compensation, if any, which is due him from the owner for such service. Any tow truck
20 business may retain possession of the same until the charges are paid.

21 (2) Notwithstanding any other provision of law, §39106 of Title 18, Guam Code
22 Annotated, concerning a lien in excess of Three Hundred Dollars (\$300), shall not apply to
23 towing, impound, and/or storage services provided in response to a peace officer dispatch
24 call; a Motor Vehicle Division call; and any other call where the owner of the vehicle has not
25 consented to removal of his vehicle; provided that notice requirements are administered
26 pursuant to §12104 of this Title.

27 (3) If the tow truck business entitled to the lien on a vehicle provided in Subsection
28 (1) of this Section is not paid the amount due, then such lienholder may proceed to sell said
29 vehicle to satisfy the lien and costs of sale at public auction. This Subsection is not
30 applicable until sixty (60) days after notice has been sent pursuant to §12104 of this Title.
31 Under the provisions of this Subsection, the tow truck business shall give at least ten days'
32 previous notice of such sale by posting notice of sale in three public places in the town or
33 place where such property is to be sold, for ten days previous to the date of the sale, and by
34 serving personal notice upon the owner.

35 **§12108. Prohibitions.** (1) It is a misdemeanor for the owner or operator of a tow
36 truck to stop at the scene of an accident for the purpose of soliciting an engagement for
37 towing services, either directly or indirectly, or to furnish any towing services, unless
38 summoned to the scene, requested to stop, or flagged down by the owner or operator of a
39 disabled vehicle or requested to perform the service by a law enforcement officer or public

1 agency pursuant to that agency's procedures.

2 (2) It is a misdemeanor for the owner or operator of a tow truck to move any vehicle
3 from a highway, street, or public property without the express authorization of the owner or
4 operator of the vehicle or a law enforcement officer or public agency pursuant to that
5 agency's procedures, when the vehicle has been left unattended or when there is an injury as
6 the result of an accident.

7 (3) This section shall not apply to the following:

8 (a) A vehicle owned or operated by, or under contract to, a motor club, which stops
9 to provide services for which compensation is neither requested nor received, provided that
10 those services may not include towing other than that which may be necessary to remove the
11 vehicle to the nearest safe shoulder. The owner or operator of such a vehicle may contact a
12 law enforcement agency or other public agency on behalf of a motorist, but may not refer a
13 motorist to a tow truck owner or operator, unless the motorist is a member of the motor club,
14 the motorist is referred to a tow truck owner or operator under contract to the motor club,
15 and, if there is a dispatch facility which services the area and is owned or operated by the
16 motor club, the referral is made through that dispatch facility.

17 (b) A tow truck operator employed by a law enforcement agency or other public
18 agency.

19 (c) A tow truck owner or operator acting under contract with a law enforcement
20 or other public agency to abate abandoned vehicles, or to provide towing service, to the
21 extent authorized by law.

22 (4) No vehicle shall be towed unless authorized by a law enforcement agency and
23 unless towed by a tow truck as defined in Section 12101(3). No vehicle shall be pulled or
24 pushed by another vehicle while on the highway.

25 **Section 4. Effective Date.** This Act shall become effective sixty (60) days after its
26 enactment.

**TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) REGULAR SESSION**

Bill No. 465

As further substituted by the Author

Introduced by:

M.C. Charfauros
A.L.G. Santos
S. L. Orsini

**AN ACT TO ADD A NEW CHAPTER 12 TO TITLE 16, GUAM CODE ANNOTATED,
RELATIVE TO REGULATING THE TOWING INDUSTRY.**

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

2 **Section 1. Short title.** This chapter is known as the "Tow Truck and Impound Regulation
3 Act."

4 **Section 2. Legislative Findings and Intent.** The Legislature finds that the towing industry
5 has had the freedom to operate without any type of rate regulation for many years. The Legislature
6 finds that the lack of rate regulation has allowed certain companies to charge unfair rates in certain
7 situations. The Legislature further finds that safety issues regarding the operation of tow trucks must
8 be addressed through proper regulation and control. It is the intent of this Legislature to regulate the
9 towing industry by mandating the establishment of maximum rates such businesses may charge in
10 certain situations. It is also the intent of this Legislature to address safety issues regarding the
11 operation of tow trucks through the establishment and regulation of license and inspection
12 procedures.

13 **Section 3. A new Chapter 12 is added to Title 16 GCA to read as follows:**

14 "Chapter 12

15 Tow Trucks

16 §12101. Definitions.

17 §12102. Business Requirements.

18 §12103. Department of Revenue and Taxation duties.

19 §12104. Notice Requirements.

20 §12105. Tow Truck Advisory Board.

1 §12106. Tow Truck and Impound Regulation; Rates.

2 §12107. Lien on towed vehicles; Lien holders' sale.

3 §12108. Prohibitions.

4 **§12101. Definitions.** As used in this Chapter:

5 (1) "Director" means the Director of the Department of Revenue and Taxation.

6 (2) "Lien," as defined in §35101 of Title 18, Guam Code Annotated, means a charge
7 imposed in some mode other than by a transfer in trust upon specific property by which it is made
8 security for the performance of an act.

9 (3) "Tow truck" means a motor vehicle constructed, designed, altered, or equipped primarily
10 for the purpose of towing or removing vehicles from a highway by means of a crane, hoist, tow bar,
11 tow line, dolly, sling, wheel-lift, flatbed or other means as approved by the Division of Motor
12 Vehicles of the Department of Revenue and Taxation.

13 (4) "Tow truck business" means an enterprise that provides tow truck services.

14 (5) "Tow truck service" means the recovery of a vehicle or the transportation on a highway
15 of damaged, disabled, abandoned, seized, or impounded vehicles by a tow truck.

16 **§12102. Tow truck business requirements.** A person who operates a tow truck business
17 shall: (1) comply with equipment requirements under §12103 of this Chapter;

18 (2) ensure that all his tow truck drivers are properly:

19 (a) trained to operate tow truck equipment; and

20 (b) licensed, as required under Article 1, Chapter 3, of this Title; and

21 (3) obtain and display a current certificate of inspection for each tow truck, as required under
22 §12103 of this Chapter.

23 (4) obtain a service license as required by §16200 of the Government Code of Guam
24 pertaining to the issuance of a Business license.

25 **§12103. Department of Revenue and Taxation duties; Inspections; Equipment**
26 **requirements; Rulemaking.**

27 (1) (a) The Department of Revenue and Taxation shall conduct inspections of tow trucks to
28 ensure compliance with the Federal Motor Carrier Safety Regulations and the provisions of this
29 chapter.

1 (b) Each inspection of a tow truck shall be conducted prior to the tow truck beginning
2 operation and at least every quarter thereafter.

3 (c) (i) The Department of Revenue and Taxation shall issue a certificate of inspection
4 for each tow truck that complies with the provisions of this article.

5 (ii) The inspection certificate shall expire one quarter from the month of issuance.

6 (d) The Department of Revenue and Taxation may charge a fee to cover the cost of the
7 inspection required under this section, subject to the Administrative Adjudication Act,

8 (2) The Department of Revenue and Taxation shall promulgate rules specifying the
9 equipment required to be carried on each tow truck, including limits on loads that may be moved
10 based on equipment capacity and load weight. The rules shall be adopted in conformance with the
11 Administrative Adjudication Act.

12 **§12104. Towing notice requirements; Cost responsibilities.** (1) Unless a vehicle is
13 impounded under §3606 of this Title, after performing a tow truck service without the vehicle
14 owner's knowledge, the person operating the tow truck shall:

15 (a) within one hour of arriving at the place of storage or impound of the vehicle, contact
16 the law enforcement agency having jurisdiction over the area where the vehicle was picked-up and
17 notify the agency of the:

- 18 (i) location of the vehicle;
- 19 (ii) date, time, and location from which the vehicle was removed;
- 20 (iii) reasons for the removal of the vehicle;
- 21 (iv) person who requested the removal of the vehicle; and
- 22 (v) vehicle's description, including its identification number and license number; and

23 (b) within five days of performing the tow truck service, send a certified letter to the last
24 known address of the registered owner of the vehicle obtained from the Division of Motor Vehicles
25 or if the person has actual knowledge of the owner's address to the current address, notifying him of
26 the:

- 27 (i) location of vehicle;
- 28 (ii) date, time, location from which the vehicle was removed;
- 29 (iii) reasons for the removal of the vehicle;

1 (iv) person who requested the removal of the vehicle;

2 (v) vehicle's description, including its identification number and license number; and

3 (vi) costs and procedures to retrieve the vehicle.

4 (c) For purposes of this Section, the Division of Motor Vehicles shall, upon the
5 presentation of official documents (Guam Police Report or Department of Revenue and Taxation
6 Directive), provide tow truck businesses with the last known address of the registered owner of the
7 vehicle in question. The tow truck business shall furnish the Division of Motor Vehicles with a copy
8 of the notice sent pursuant to Subsection (b) above within five days after the release of the registered
9 owner's address.

10 (2) The registered owner of a vehicle lawfully removed is responsible for paying the towing,
11 impound, and storage fees, unless the vehicle was stolen or taken without the consent of the owner
12 in which case the parties responsible for such actions shall be liable for the cost incurred in removal
13 of said vehicle.

14 **§12105. Tow truck advisory board.** (1) The Director shall appoint a tow truck advisory
15 board consisting of not less than seven nor more than nine members who shall serve for a term of
16 three years. The membership of the board shall include, but need not be limited to, representatives
17 of the tow truck industry, motor or automobile club industry, law enforcement agencies, and local
18 government consumer protection agencies, and a representative of the Guam Claims Association.
19 The Director shall select from among the members a chairman, who shall serve as such for a period
20 of two years. Members of the board shall not be compensated, but shall be allowed their actual and
21 necessary expenses incurred in the performance of their duties. The board shall meet at least twice
22 annually.

23 (2) The board shall advise the Director on matters regarding tow truck safety and operations,
24 including but not limited to, developing standards for licensure and inspection of tow trucks and
25 requirements and qualifications for drivers thereof. In addition, the board shall advise the Director
26 on matters relating to the establishment of maximum rates pursuant to §12107 of this Article.

27 **§12106. Tow truck and Impound Regulation; Rates.** The Director of the Department of
28 Revenue and Taxation shall promulgate, in accordance with the Administrative Adjudication Law,
29 rules and regulations:

1 (1) (a) establishing maximum rates tow truck businesses may charge for the towing of
2 vehicles that are transported in response to:

- 3 (i) a peace officer dispatch call;
- 4 (ii) a Motor Vehicle Division call; and
- 5 (iii) any other call where the owner of the vehicle has not consented to removal of
6 his vehicle.

7 (b) establishing maximum rates impound yards may charge for the storage of vehicles
8 stored as a result of:

- 9 (i) a peace officer dispatch call;
- 10 (ii) a Motor Vehicle Division call; and
- 11 (iii) any other call where the owner of the vehicle has not consented to the storage
12 of his vehicle.

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

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

22 **§12107. Lien on towed vehicles; Lien holders' sale.** (1) Notwithstanding any other
23 provision of law, unless a vehicle is impounded under §3606 of this Title, every tow truck business,
24 who, while lawfully in possession of a vehicle renders towing, impound, and/or storage services in
25 response to a peace officer dispatch call; a Motor Vehicle Division call; and any other call where the
26 owner of the vehicle has not consented to removal of his vehicle; has a lien thereon, dependent upon
27 possession, for the compensation, if any, which is due him from the owner for such service. If there
28 is a prior lien on said vehicle the tow truck business may record a second lien on said vehicle. Any
29 tow truck business may retain possession of the same until the charges are paid.

1 (2) Notwithstanding any other provision of law, §39106 of Title 18, Guam Code Annotated,
2 concerning a lien in excess of Three Hundred Dollars (\$300), shall not apply to towing, impound,
3 and/or storage services provided in response to a peace officer dispatch call; a Motor Vehicle
4 Division call; and any other call where the owner of the vehicle has not consented to removal of his
5 vehicle; provided that notice requirements are administered pursuant to §12104 of this Title.

6 (3) If the tow truck business entitled to the lien on a vehicle provided in Subsection (1) of
7 this Section is not paid the amount due, then such lienholder may proceed to sell said vehicle to
8 satisfy the lien and costs of sale at public auction. This Subsection is not applicable until sixty (60)
9 days after notice has been sent pursuant to §12104 of this Title. Under the provisions of this
10 Subsection, the tow truck business shall give at least ten days' previous notice of such sale by posting
11 notice of sale in three public places in the town or place where such property is to be sold, for ten
12 days previous to the date of the sale, and by serving personal notice upon the owner.

13 **§12108. Prohibitions.** (1) It is a misdemeanor for the owner or operator of a tow truck to
14 stop at the scene of an accident for the purpose of soliciting an engagement for towing services,
15 either directly or indirectly, or to furnish any towing services, unless summoned to the scene,
16 requested to stop, or flagged down by the owner or operator of a disabled vehicle or requested to
17 perform the service by a law enforcement officer or public agency pursuant to that agency's
18 procedures.

19 (2) It is a misdemeanor for the owner or operator of a tow truck to move any vehicle from
20 a highway, street, or public property without the express authorization of the owner or operator of
21 the vehicle or a law enforcement officer or public agency pursuant to that agency's procedures, when
22 the vehicle has been left unattended or when there is an injury as the result of an accident.

23 (3) This section shall not apply to the following:

24 (a) A vehicle owned or operated by, or under contract to, a motor club, which stops to
25 provide services for which compensation is neither requested nor received, provided that those
26 services may not include towing other than that which may be necessary to remove the vehicle to the
27 nearest safe shoulder. The owner or operator of such a vehicle may contact a law enforcement
28 agency or other public agency on behalf of a motorist, but may not refer a motorist to a tow truck
29 owner or operator, unless the motorist is a member of the motor club, the motorist is referred to a

1 tow truck owner or operator under contract to the motor club, and, if there is a dispatch facility which
2 services the area and is owned or operated by the motor club, the referral is made through that
3 dispatch facility.

4 (b) A tow truck operator employed by a law enforcement agency or other public agency.

5 (c) A tow truck owner or operator acting under contract with a law enforcement or other
6 public agency to abate abandoned vehicles, or to provide towing service, to the extent authorized by
7 law.

8 (4) It is a misdemeanor for an owner or operator of a tow truck to store vehicles on lots other
9 than duly licensed impound lots or storage lots certified, approved and licensed by the Division of
10 Motor Vehicles of the Department of Revenue and Taxation. This prohibition shall not apply to
11 vehicles stored on private non-commercial property at the direction of the owner of the vehicle and
12 with the consent of the property owner.”

13 **Section 4. Effective Date.** This Act shall become effective one-hundred and twenty
14 (120) days after its enactment.



Guam Police Department



Government of Guam

Post Office Box 23909 ★ GMF, Guam 96921 U.S.A.

Tel.: (671) 475-8508~11 ★ Fax (671) 472-4036

**CARL T.C.
GUTIERREZ**

Governor of Guam

**MADELEINE Z.
BORDALLO**

Lieutenant Governor

**JACK S.
SHIMIZU**

Chief of Police

**COL. B.A.
LEON GUERRERO**
Deputy Chief of Police

The Honorable Mark C. Charfauros
Chairman, Committee on Judiciary, Criminal Justice and
Environmental Affairs
Twenty-Third Guam Legislature
Ada's Commercial and Professional Center
138 East Marine Drive
Suite 101C Annex
Agana, Guam 96910

"Serve and Protect"

Dear Mr. Chairperson:

GPD supports the aforementioned bill insofar as its benefits the consumers, general public and towing or wrecker companies.

As you may or may not know, GPD finds itself at times involved with problems surrounding the towing and/or storage of vehicles at towing or wrecker lots. Oftentimes, GPD is caught in the middle of problems between competing towing or wrecker companies whose owners are sometimes close relatives of each other in addition to problems between the operators or owner of vehicles and the towing or wrecker companies.

For example, a typical motor vehicle accident involving no injuries nor criminal acts, but where one or both vehicles are disabled or inoperable requires in that situation that tow or wrecker companies be called in by the officer to at least remove the vehicles from obstructing the roadway or from posing a safety risk, or to remove the vehicle to wherever the owner or operator desires (i.e., usually to the private towing or wrecker lot).

What should happen under GPD's current policy for this situation is one of two things: (1) the officer has Tactical Operations Center (TOC) dispatch at operator's or owner's request a specific towing or wrecker company, or (2) the officer calls TOC to dispatch a towing or wrecker company from the rotational list if there is no preference by the owner or operator.

Drug Free Guam Para Todos

Letter to Senator Mark C. Charfauros

Subject: Proposed Contract with Towing and Wrecker Companies

Page 2

This system has however only led to numerous complaints by and among different towing or wrecker companies that (a) owner's or operator's requests are not true; (b) that GPD favors one or two companies over them because of "connections" department-wise or family-wise; (c) that GPD should give it to the first towing or wrecker company on the scene and not to the company whose turn comes up on the rotational list but is slow in responding (e.g. taking thirty minutes or more); (d) that GPD does nothing when the first towing company on the scene hooks up the inoperable vehicle in violation of the rotational system; and (f) that GPD does not honor the owner's or operator's request for a specific company authorized only by the operator's or owner's insurance.

In response to the above described example or towing situation, GPD is proposing a new policy change tentatively set to be effective 1st June 1996.

For situations not involving on-going criminal investigation (i.e., vehicle of arrested person, vehicle as or containing evidence of crime, etc.) nor involving impoundment for vehicle and Traffic Code violations of Title 16 G.C.A. (i.e., DUI, expired registration, abandoned vehicle, etc.), but where one or more motor vehicle is inoperable or non-functioning because of an accident or collision and only minor or no injuries are sustained, the proposed policy and procedure change is as follows:

- (1) GPD shall no longer utilize a rotational system of calling towing or wrecker companies to respond.
- (2) Nor shall GPD officers have T.O.C. contact any towing or wrecker company per the operator's or owner's request.
- (3) GPD shall only contact those towing or wrecker companies under contract to GPD solely for criminal or Title 16 G.C.A. impoundment cases, or for simply removing a vehicle or vehicles involved in a non-injury accident from obstructing the street, highway or roadway to the shoulder or to another appropriate area.
- (4) Contact of towing or wrecker companies in those non-criminal or non-impoundment situations for the purpose of removing the disabled or inoperable vehicle to a private lot or to the vehicle owner's property shall remain the sole responsibility of the owner or operator.
- (5) GPD will if necessary, under the circumstances as police service transport operators or owners of disabled or non-functioning vehicles in non-injury, non-criminal or non-impound situations to the nearest telephone or police station or precinct to use a telephone to contact a towing or wrecker company. In this way, the free market forces and competition in this industry determines how and when such services are provided and not GPD's T.O.C. or its rotational system.

Letter to Senator Mark C. Charfauros

Subject: Proposed Contract with Towing and Wrecker Companies

Page 3

Another example of a related towing/wrecker problem that GPD experiences on a fairly periodic basis are complaints by owners or operators of vehicles impounded under the traffic or vehicular code or other laws of the territory (e.g., DUI, expired registration, etc.) for what they perceive as excessive storage costs charged to them individually or to their insurance companies. Although some lengthy delays in releasing impounded vehicles are directly attributed to GPD and the department has been held responsible for such costs, it is GPD's impression that owners or operators of impounded vehicles still considered the storage costs to be excessive even where timely releases occurred or where they are the cause of delay in recovering the vehicle from the towing or wrecker private storage lot.

With respect to the aforementioned example, GPD is of course working to improve timeliness of release of such vehicles, however, GPD is also tentatively proposing with the preliminary agreement of the Prosecution Division of the Attorney General's Office to implementing a "constructive impoundment" policy for traffic or vehicular code offenses, or violations (i.e., confiscation of license plates and permitting the owner or operator of constructively impounded vehicles to have his or her vehicle towed either to their home or property or to the private wrecker lot until they secure release of the license plates). In this way, the owner or operator may avoid what they perceive as excessive storage costs.

GPD would also like to respectfully bring to your attention that §12104 of Bill 465 may require further review as to whether it is consistent with the Abandoned Vehicles Act (§3606 of Title 16 G.C.A.).


J.S. SHIMIZU

cc: Acting Deputy Police Chief
ACOP, Administrative Division
ACOP, Support Division
ACOP, Criminal Investigation
ACOP, Operational Division
Legal Section

CORRES.SAB/986/14MAY96/CONTRACT.TOW



**AUTO CLUB SERVICE
OF GUAM**

P.O. BOX 23186 GMF, GUAM 96921
TEL: (671) 646-2880 • FAX: (671) 646-7206
24 HR ROADSIDE SERVICE 649-0911

May 14, 1996

**Sen. Mark C. Charfauros
Chairman, Committee on Judiciary,
Criminal Justice, and Environmental Affairs
23rd Guam Legislature
Ada's Commercial and Professional Center
138 East Marine Drive, Suite 101C-Annex
Agana, Guam 96910**

Re: Testimony on Bill 465 - An act to add a new Chapter 12 to Title 16, Guam Code Annotated, relative to regulating the towing industry.

Senator Charfauros and members of the committee:

I support Bill 465 which, among other requirements, will regulate rates and safety issues within the towing industry.

While this bill has important sections regarding rates and safety, I would like to bring your attention on two matters directed in Subsection 12108 which are just as important.

1.

I wholeheartedly endorse Subsection 12108 which makes it a misdemeanor for tow truck operators to solicit services at the scene of an accident. As a company which provides emergency roadside assistance, we assist motorists in distress. But some tow operators take advantage of the situation - especially after an accident - and use high pressure tactics which make motorists feel they have no other choice then to accept their rates and services. These few maverick tow truck operators who are in the same league as ambulance chasers prey on the misfortunes of others through intimidation, harassment and threats.

In my personal situation, I know of a tow truck company which arrived within minutes of an accident, intimidated the driver of the vehicle, diverted the vehicle to a body shop (who was very possibly paid a commission), and attempted to rent a car for the driver. I have included statements from the individuals involved for your review.

While this "no solicitation section" may seem harsh, I believe it is the only safeguard from these unscrupulous tow truck operators who try to take unfair advantage of people's miseries and defraud insurance companies.

I believe that with the passage of this bill, this section will greatly help the industry raise its standards of service while at the same time bring a higher degree of ethical conduct among its members.

2.

I would also like to recommend the following added to Subsection 12108 of the bill.

(5) It is a misdemeanor for an employee of the Guam Police Department or any government agency or department having jurisdiction of the dispatch of tow trucks to own or have a financial interest in a tow truck business.

For those of you unaware of the situation, one tow truck business has been operating for at least the past two years under the ownership and management of two Guam Police Department officers. It has come to my attention that these two GPD officers still operate this business despite several complaints from others in the industry.

While some may argue that this may be unethical but not illegal, I believe you would agree that this situation will lend itself to favoritism and unfair business practices - if not already.

One last comment.

Guidelines for the dispatch of private wrecker services at Guam Police Department's Tactical Operations Command should be strengthened or better regulated - perhaps included in this legislation or through the newly formed Tow Truck Advisory Board.

As many tow truck businesses can attest, GPD dispatchers rarely, if ever, follow the "rotation" guidelines which is supposed to ensure fairness.

I am ready to answer any specific questions you may have regarding my testimony. Thank you.

Robert Delosia

April 10, 1996

To Whom It May Concern:

I was involved in an auto-auto collision on April 6th. Shortly after the accident, a tow truck appeared. I do not know who called for the tow truck. I was approached by a tow truck driver employed by Towmaster. He told me that his company would *take care of me*. He went on to say, "Don't worry about it, I'll take care of you - I'm not going to charge you anything." I informed him that I was going to call my girlfriend's dad's company which is the Auto Club. At this point, the tow truck driver went to speak with the police officer. I don't know what they said to each other.

Shortly after, the tow truck driver's supervisor showed up at the scene. The supervisor's name is Jesse Rivera. I also told Mr. Rivera that I would wait for the Auto Club since my girlfriend's father would assist me.

Mr. Rivera went on to say things to the effect of "Let me tell you about the Auto Club. They can't provide you with a loaner, they'll just tow your car." Mr. Rivera told me that if I chose to accept his company's services, he would take me down to Avis Rent A Car because he *"already had a 1995 Nissan Sentra set up"* for me. He even made the comment to me that the Sentra "is even better than your car".

During all this confusion, I felt a lot of pressure because, number one, I was just involved in an accident. Traffic was building up, I did not know what to do -- I was scared. Number two, the tow truck driver and Mr. Rivera kept saying I had to get my car out of the way. I told them again I still wanted to wait for the Auto Club. They told me I couldn't wait and I had to get the car out of the way. They hooked up my car and moved it into the center lane. I still wanted to wait for my girlfriend's father of the Auto Club. Then Roland Sablan of the Auto Club arrived.

My girlfriend Susan was with Mr. Sablan and Mr. Bob Castro at this point. Mr. Sablan requested that Towmaster's release my car and that Towmaster's could bill Auto Club for whatever services were

already rendered. According to Susan, Towmaster's would not release the hook-up even after Mr. Sablan explained to them that I was considered 'family' and that they would take care of me.

Mr. Rivera said, "We can't wait anymore, the cop's are going to get mad at us, we have to move." So, I felt I had no other choice since **THEY WOULD NOT RELEASE MY CAR.**

Susan and I got into Mr. Rivera's truck because he said he would take us to Avis Rent A Car. He told me that the Nissan would be a loaner while my car was being repaired. He continued to tell me that the owner of E & R Body Shop would be down at the rental car agency waiting to meet with me to discuss repairing my car at his shop. Mr. Rivera also asked me who was my insurance carrier. I told him it was Dai-Tokyo Fire & Marine. Then Mr. Rivera said that the owner of the repair shop he was recommending to me is friends with my insurance company's owner and so "it shouldn't be any problem."

When we got to the Rent A Car Agency, the body shop owner was there, but I did not speak with him because by then, Mr. Teodosio (my girlfriend's father) had arrived.

I should have not allowed myself to be pressured. But when you have just experienced something as scary as this, it's easy to be convinced by others to do things their way.

Sincerely,


Erik D. Yamamoto

Susan Teodosio
P.O. Box 930
Agana, Guam 96910
Phone: 653-1936

About 6 p.m., April 6, 1996, on Marine Drive in front of Taco Bell, Tamuning, I, Susan Teodosio, 17, and my boyfriend Erik Yamamoto, 17, were involved in an accident with another vehicle.

A Towmasters tow truck arrived on the scene shortly after the accident and the driver, Bob Castro, began soliciting us for towing services. A Guam Police Department officer, Officer Quitugua, arrived shortly, followed by Jesse Rivera, who identified himself as the owner/manager of Towmasters.

I called my father at his residence in Yigo informing him of the accident. He informed me not to let Towmasters hook up the vehicle because of their high towing charges and storage fees. He also told me that someone was arriving with an Auto Club Services tow truck to remove the vehicle from the road free-of-charge. The vehicle could then be towed to Erik's residence to avoid storage fees.

When I returned from the phone call, Castro was pressuring Erik to tow his vehicle. Castro made statements such as, "There's no charge for the towing." "You don't have to pay for anything." "We'll give you a free loaner car." "You've got to get it off the road." "This is not going to cost you anything." "The insurance company will pick it up." "I'm doing you a favor."

Erik informed Castro that the Auto Club tow truck was arriving. Erik was already shaken up by the accident. Under tremendous stress and after relentless coercion from Towmasters, Eric finally allowed the vehicle to be hooked up.

I called my father back up and said Towmasters had already hooked up the vehicle. My father said to tell them to unhook the vehicle because an Auto Club tow truck was coming to tow it.

I went back outside and told Castro what my father told me. Castro said, "Well, we're going to have to charge you the full service fee." Castro said it would cost \$150 to set it down. Castro then said Erik was the owner and approved of the tow. I observed that Erik was still being pressured and intimidated.

By this time, the Auto Club tow truck arrived, driven by Roland Sablan. Sablan told the Towmasters driver to set down the vehicle and bill the charges to Auto Club. He would

then tow the vehicle to Erik's house. Castro refused.

After several minutes, Castro drove the tow truck away with Erik's vehicle. Rivera said it was going to E&R Auto in Harmon. Rivera told Erik and I to get in his pickup and we would follow the tow truck to E&R Auto.

While traveling to E&R Auto, Rivera said the shop was closed and Erik's vehicle would have to be stored at their storage lot in Anigua. Rivera said we were going to Avis-Rent-A-Car to get a loaner car.

Rivera said, "The owner of the shop knows the manager of the insurance company. It'll be taken care of." Rivera said Erik's car might have to stay in the storage lot for four days.

While waiting at Avis Rent A Car, my father arrived and told us to get in his van. My father took us to Erik's house. We later picked up Erik's vehicle from Towmaster's storage lot.

Susan Teodosio

April 10, 1996

To Whom It May Concern,

My son was involved in a car accident last Saturday. When he came home and told us what happened, naturally I was upset. One of the things that really concerns me is the incident regarding Towmaster's towing services.

I suppose tow companies must have radios and that may be the reason they were swiftly on the scene. No problem with that. But once my son had advised them that he chose to wait for the Auto Club, they should have respected this decision rather than scare or pressure him into changing his mind.

It must have been obvious to them that he was a shaken teenager and it appears that they took full advantage of this.

Mentioning to him that the police officer would get angry because the car was not being moved, promising a car loaner at no charge to him and not only recommending, but having a specific auto body repair shop conveniently at hand seems to suggest a conflict of interest not to mention a lack of professional ethics.

I now wonder what personal interests Towmaster's or Mr. Rivera had in being so 'helpful' or are these services normal? It angers me to know that business people have the audacity to take advantage of others by sales pitches and pressure thereby traumatizing them further and victimizing them in yet another way.

Where does it end?

Sincerely,


Mrs. M.E. Blas

parent of Erik D. Yamamoto

MAY 14 1996

Honorable Mark C. Charfauros, Chairman
Committee on Judiciary and
Criminal Justice
Twenty-Third Guam Legislature
Agana, Guam 96910

Dear Senator Charfauros:

The following are comments concerning Bill 465 which proposes to provide a means to regulate the Towing Industry on Guam.

The Legislative Findings and Intent of Bill 465 is to regulate the towing companies on Guam. This would be benefit and protect the motorist on Guam against excessive and unfair charges. It would also provide protection to the citizens of Guam in that it establishes safety standards which towing companies must follow. These objectives are in the best interest of the general public.

However, we believe that the provisions of §§12101 through 12105 need additional work to adequately address numerous important and critical issues.

In §12101 defines "tow truck" to mean a motor vehicle constructed, designed, altered, or equipped primarily for the purpose of towing or removing vehicles from a highway by means of a crane, hoist, tow bar, tow line, dolly, or other means. This is an extremely broad definition. It would be very difficult to enforce. As drafted almost any vehicle could be a tow vehicle even a light pickup such as a Ford ranger or Toyota Hilux if they were equipped with towing apparatus (i.e. crane, hearse, tow bar, dolly, etc.).

§12102 should include a subsection (4) that should read as follows: "Must obtain a service license as required by §16200 of the Government Code of Guam pertaining to the issuance of a Business License."

§12103 pertains to DRT duties; inspections; equipment requirements and rule-making authority. This provision that towing trucks be inspected quarterly instead of annually. The rational is that it enables the enforcement agency to periodically monitor the condition of the mechanical features; the safety equipment; and the qualification of the operator of the vehicle. This should lead to creating a greater awareness of the importance of safety

and maintenance by the operator and towing company. To accomplish this I would recommend that §12103 be modified as follows:

(a) Non-Accident towing within one hour of arriving at the place of storage or impound of the vehicle, submit a list which should contain the following:

(i) The police officer who requested the removal of said vehicle (Print Name, Badge number). Police Officer must determine the need of non-accident towing.

(ii) Date, Time, Location from which the vehicle was removed.

(iii) Reason for the removal.

(iv) Vehicle's description, including it's identification number and license plate number.

(b) Within five days of performing the tow truck service, send a certified letter to the last known address and other address related to the registered owner Motor Vehicles or if the person has actual knowledge of the owner's address to the current (all addresses) address, notifying owner of the:

(i) Location of vehicle, date, time and location from which vehicle was removed.

(ii) Police Officer requesting the removal of said vehicle.

(iii) Vehicle's description, including it's vehicle identification number and license plate number.

(iv) Costs and procedures to retrieve the vehicle.

(2) The actual owner of a vehicle lawfully removed is responsible for paying the towing, impound, and storage fees, unless the vehicle was stolen or taken without the consent of the owner in which case the parties responsible for such actions shall be liable for the cost incurred in removal and storage of said vehicle. [Why should an innocent party be pecuniary liable for criminal acts of others]

(3) Towing, impound, and storage fees may create a lien on the vehicle with no previous lien pending until said charges are paid except for limitations as set out in subsection (2) above. If lien would be proper under subsection (2) above and there is a prior lien on said vehicle the towing company may record a second lien on said vehicle until said towing and storage charges are paid in full.

§12104 states that this act shall be effective sixty days after its enactment. Motor Vehicle will not be able to develop proper regulations to govern procedures and requirements necessary to execute the provisions of this act. The Department would ask for at least 120 days.

The Department also has some concerns because the Act does not address the issue of proper storage areas or impound lots. There are environmental concerns as well as zoning questions that should be addressed. Any towing operations storing vehicles on premises not in compliance with business license, GEPA and an zoning requirements should lose their license to operate a towing business. Also the Department is concerned that the system as

Page 3

proposed could lead to abuse in police calling operators that are friends or relatives. The Act should address this by establishing procedures for selection of towing companies in a random manner free of influence by the officer calling for towing service.

Overall the legislation is needed. However, we would like to work with the Committee to address the concerns we have raised.

Sincerely,

A handwritten signature in black ink, appearing to read "J.T.O.", with a long horizontal flourish extending to the right.

JOSEPH T. DUENAS
Director

PUBLIC HEARING
REGULATION OF TOWING INDUSTRY

I would like to take this time to thank Senators Mark Charfauros, Angel Santos and Sonny Orsini for tackling this greatest of tasks for the people of Guam. As consumers on Guam, we are left at the mercy of the towing industry when our vehicles are being towed.

As a claims adjuster, I handle an average of 100 claims a month. Of these claims, the majority of the claims consist of two or more vehicles. The trend on Guam, is that your major damages, resulting in total losses, are usually during the dry season, when no one seems to take note of the posted speed limits.

The rainy season brings the most accidents, especially in the beginning of the season because people forget that our roads can be slippery.

In reviewing your bill 465, I note that there is nothing in the law that requires that Tow companies provide proof of insurance. Guam's mandatory Insurance law requires that we maintain third party liability insurance in case of accidents where we are found liable for the damages to property of others. The standard automobile policy suffices for most people, and some businesses. Unfortunately, if you review your auto policy, when you are towing someone else's vehicle, damages you do to their vehicle is not covered unless covered by like insurance in the company.

Wrecker companies buy auto insurance to cover people that they collide with, but their standard auto policy does not cover vehicles that they tow, that sustained damages while in their care, custody and control. Also, we encounter numerous instances where Insured or Claimant vehicles are in the care, custody and control of wrecker companies, and for some strange reason, body parts or vehicle accessories are stolen and the wrecker company refuses to reimburse the Insurance companies for the loss. In our company, I personally handled a vehicle claim, where the vehicle was kept at the residence of a wrecker company, the property is under lock and key, and we have been advised that they also have a dog that runs loose within the property. Even with all of this "protection", the vehicle's stereo system, which is a factory stereo, was stolen. When the loss was brought to the wrecker company's attention, they insisted that the customer must have taken it out of the vehicle. The customers sustained injuries, and were not able to get around and took it very personal that the wrecker company would insinuate that they took it out.

I believe that the wrecker companies should also be required to carry some sort of General Liability coverage to protect customers for unforeseen losses they may incur because of the wrecker company's failure to protect from further loss.

Further, in your law, you indicate on section 12108, it is a misdemeanor for the towing company to stop and solicit an engagement for towing services. We should also include that the wrecker company should not also solicit the towing of the vehicle to a specific body shop. So many times, wrecker drivers have taken vehicles to bodyshops without the consent of the owner of the vehicle.

Rates should be worked out with an advisory board to come to an agreed rate. Several years ago, the "first towing" was only \$75.00. That was from the accident site to the wrecker lot. The second towing was only \$45.00.

Today, the average wrecker charge for Insurance companies is between \$95.00 to \$175.00, depending on who is towing the vehicle. Within the last several days, I had the honor of reviewing a towing bill from the accident site to the body shop and the towing bill came to \$435.00. The wrecker company had charged \$385 for waiting time while GPD did it's investigation. The second towing was only \$50.00.

I find it amazing that if an individual requests assistance for towing the charges are reasonable, ranging from \$45.00 to \$75.00. But if the wrecker company gets wind that there is an insurance company involved in taking care of the towing charges, the towing bill then becomes \$175.00 on the average.

By: Tony Quitugua

*Virginia Levine - Super Veh
Reg BR.*

It is very obvious that the Introduction of Bill 465, regulating the towing industry will directly benefit the towing companies.

Through the years, the towing company/junkyard have been selling vehicles. When they weren't successful in actual registration, the vehicle would be sold by parts.

Since a vehicle is probably the second, if not the first most expensive item purchased, I see a conflict of interest when a towing company is authorized by law to tow a vehicle without the consent of the owner or a police officer. Especially when that same law authorized the same vehicle to be sold by that towing company.

I see a problem when lawmakers pass laws which would benefit an interest group and not take into consideration the General Public's well-being.

Even the judicial system personally serves subpoenas before a hearing, case, etc. is heard.

Imagine purchasing a \$24,000.00 vehicle, and the towing company sells your vehicle for a bill that you've accrued, because a letter was mailed to you and you were off-island (sick), etc.

MECHANIC LIEN - Normally Public Law 16-120, Section 24, provides for compensation for work requested by an owner.

You would be surprised that some of the consumers run up a Bill as high as \$4,000.00 and up, and this was mentioned by the towing company.

Is there a ceiling on the price a company can charge?

We would like to pattern the towing bill similar to the mechanic lien and the taxi/bus regulation.

According to Section 12104, (1) the word **without** should be deleted and replaced with the wording "with the consent of the registered owner, authorized representative-driver)

- (a) Within one hour of arriving at the place of storage, GPD shall be notified.

How will GPD maintain their records regarding vehicle(s) that have been impounded. Will these documents be filed daily, and unless you know the exact date when your vehicle was impounded, you'd be out of luck. Unless GPD maintains their records properly, otherwise it would be useless to the consumer.

Normally GPD will not intervene on calls regarding the towing of a vehicle on a private property if it is not blocking a driveway, they would inform the property owner that they would have to make the call. DPS would take the license plate number to verify if that vehicle is stolen or wanted for any specific reason. GPD will authorize the towing of a vehicle when it is impeding traffic.

NON ACCIDENT TOWING - The registered owner or authorized person must authorize the

removal of vehicle (and not at the discretion of the towing company). Who's to say the towing company may be looking around for a vehicle that they were interested, whether for parts or the whole vehicle, impound it and later on sell that same vehicle.

In cases where the registered owner does not authorize the removal, a Guam Police Officer must adjudicate the need for towing.

ACCIDENT TOWING - On the accident report, the place where vehicle is being towed to and the telephone must be reflected.

12103, (b) Each inspection of a tow truck shall be conducted quarterly, according to federal regulations adopted by Title XVI.

****No tow vehicle shall tow or carry a vehicle(s) who's GVW exceeds it's maximum carrying capacity of the tow vehicle.**

****Manner of operation-towing companies shall operate in a safe and prudent manner while towing a vehicle.**

12105. The Director of Revenue & Taxation shall impose any penalties or suspend the business license and/or vehicle registration(s) or combination of all for repeated offenses.

REQUIREMENT:

1. Police report regarding the status of vehicle (stolen or not).
2. Obtain clearances from Business Privilege Tax, delinquent Account Return Branch and Weights & Measure Branch (Motor Carrier).
3. Certified Mail-Return receipt/1st Notice given 30 days, if not received, a second notice must be sent out and acknowledged by the registered owner.
4. Towing company must have a receipt book and a logbook containing the following information:
 1. Date, time and location vehicle was towed from.
 2. License plate number, General description of vehicle and VIN Number.
 3. Person requesting the removal of vehicle (must be from the registered owner or an authorized person or GPD). Registered owner name printed and signature and Social Security Number.
5. Certification from _____ regarding the safety cables, lifting device, and/or the hydraulic systems/etc.

12105, The Director of Revenue & Taxation shall impose any penalties or suspend the Business License and/or Vehicle Registration(s) or combination of all for towing companies abusing the

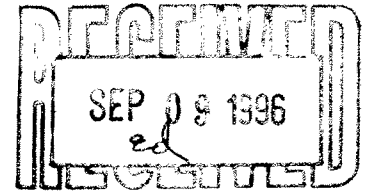
charging of towing and storage fees.

PENALTIES: Any company abusing the charging for towing and storage shall be assessed \$50.00 for 1st offense, \$100.00, second offense and \$500.00 for the third offense suspension of their Business License and all Registrations shall expire immediately.

Weight & Measure - shall receive and handle all complains against any company.

September 9, 1996

Senator Mark C. Charfauros
Chairman, Committee on Judiciary, Criminal
Justice, and Environmental Affairs
Twenty-third Guam Legislature



**Subject: Comments of Bill 465, "AN ACT TO ADD A NEW
CHAPTER 12 TO TITLE 16, GUAM CODE ANNOTATE,
RELATIVE TO REGULATING THE TOWING INDUSTRY"**

Dear Senator Charfauros:

Reference is made to your letter of August 26, 1996 received by our Office on August 27th, 1996. I want to thank you for the opportunity to give follow-up comments concerning this very important piece of legislation.

My Office has reviewed Bill 465 and the changes made after the public hearing. We offer the following comments for your consideration on final "mark-up".

We recommend that the definition of "Tow truck" contained in §12101 be changed by adding to subsection (3) the following language after the last word means: "as approved by the Division of Motor Vehicle". We also recommend that a new definition be added as follows: "(6) Owner as used in this chapter shall mean legal owner. Registered owner is presumed to be the legal owner but this presumption may be rebutted."

We recommend that §12103(1)(a) should be as follows: "The Department of Revenue and Taxation shall conduct inspections of tow trucks to ensure compliance with the Federal Motor Carrier Safety Regulations and the provisions of this chapter. "

We recommend that §12104(1)(b) be changed to require the towing company to, when sending the notice to the owner of the vehicle, furnish the Division of Motor Vehicle a copy of said notice. We recommend that §12104(1)(c) should be changed to read as follows: "For purposes of this Section, the Division of Motor Vehicles shall, upon the presentation of official documents (Guam

Police Report or Department of Revenue and Taxation Directive), provide tow truck businesses with the last known address of the registered owner of the vehicle in question unless it is known that the registered owner is not the legal owner. The registered owner is presumed to be the legal owner. This presumption may be rebutted.

It is recommended that §12104(2) be changed by deleting the word registered before word owner in the first sentence.

It is also strongly recommended that a new subsection to Section 12108 be added as follows: "(3) It is a misdemeanor for an employee of the Guam Police Department or an employee of the Guam Fire Department or an employee of the Department of Revenue and Taxation to be employed by a towing business, to be an owner of or have an interest in a towing business." Subsection (3) of Section 12108 should become subsection (4).

We would also recommend a provision be added that addresses storage and impound lots. During our testimony we addressed this issue. It might be best to include this in §12106(c) by adding this phrase: "establish regulations and procedures concerning requirements for clearances and licensing of impoundment and storage facilities. " Then add a subsection (5) to §12108 as follows: "It is a misdemeanor for an owner or operator of a tow truck to store vehicles on lots other than duly licensed impound lots or storage lots certified, approved and licensed by the Division of Motor Vehicles. This prohibition shall not apply to vehicles stored on private non-commercial property at the direction of the owner of the vehicle and with consent of the property owner."

Hopefully you will find these suggestion helpful. The above suggested changes should improve enforcement of this act as well as protect the consumer.

Sincerely,



JOSEPH T. DUENAS
Director

Senator Mark C. Chao

Chairman

Committee on Judiciary, Criminal Justice and Environmental Affairs

Twenty-Third Guam Legislature

Ada's Commercial & Professional Center
138 East Marine Dr., Suite 101C-Annex
Agana, Guam 96910

Tel: (671) 472-3342-3
Fax: (671) 472-3440

WITNESS SIGN-IN SHEET

Tuesday, May 14, 1996

9:30 A.M.

Public Hearing Room, Agana

BILL NO. 465, AS SUBSTITUTED BY THE AUTHOR, AN ACT TO ADD A NEW CHAPTER 12 TO TITLE 16, GCA, RELATIVE TO REGULATING THE TOWING INDUSTRY.

NAME (please print)	ORGANIZATION	ORAL/WITTEN	FOR/AGAINST
ANTONIA LUJAN	BEN LUJAN TOWING		
Raymond S Lujan	JOE LUJAN TOWING		
ELIZABETH L. IRIARTE	Big Box + Company		
Tom Glenfield	Joe Lujan Towing		
Phil Tydings	GPI	✓ ✓	
Robert Teodosio	Auto Club	✓ ✓	
TONY QUINTANA	Individual	✓ ✓	✓
ROLANDO C. ODERO	GUAM CLAIMS ASS		
JOE BESAGAN	NANBO INSURANCE		
CRIS M. ANAS	MAYLANS INS. CO.		
Bob Pearson	DRT	✓	

Copy



Notice of Public Hearing

23rd Guam Legislature

Senator

Mark C. Charfauros

Chairman, Committee on Judiciary, Criminal Justice and Environmental Affairs

9:30 a.m.

CONFIRMATION HEARING

Appointment of Mr. Reuben Cavan to the Position of Acting Member, Guam Environmental Protection Agency Board of Directors, for a two-year term to expire March 26, 1998.

Appointment of Mrs. Maria Quinata to the position of Acting Member, Guam Environmental Protection Agency Board of Directors, for a three-year term to expire April 22, 1999.

PUBLIC HEARING

Bill No. 448, AN ACT TO ADD A NEW SECTION 47113 TO CHAPTER 47, TITLE 10 GUAM CODE ANNOTATED ALSO KNOWN AS THE "WATER POLLUTION CONTROL ACT."

Bill No. 465 As substituted by the Author, AN ACT TO ADD A NEW CHAPTER 12 TO TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO REGULATING THE TOWING INDUSTRY.

Bill No. 554, AN ACT TO AMEND SECTION 80.53 OF TITLE 9 GUAM CODE ANNOTATED, TO REQUIRE THAT PERSONS CONVICTED OF A SEXUAL ABUSE CRIME BE HELD RESPONSIBLE FOR THEIR VICTIM'S HEALTH CARE COSTS IN CASES OF SEXUALLY TRANSMITTED DISEASES.

Bill No. 570, AN ACT TO ADD A NEW ARTICLE 7 TO ESTABLISH A GUAM SENTENCING COMMISSION TO PERFORM PERIODICAL REVIEWS OF CRIMINAL AND CIVIL SENTENCING GUIDELINES AS PROVIDED IN CHAPTER 80; TITLE 9, GUAM CODE ANNOTATED.

Bill No. 580, AN ACT TO ESTABLISH FEES TO BE CHARGED BY THE ATTORNEY GENERAL FOR LEGAL SERVICES PROVIDED TO GOVERNMENT AGENCIES AUTHORIZED BY STATUTE TO HIRE OR RETAIN OTHER COUNSEL.

Date: Tuesday, May 14, 1996

**Place: Public Hearing Room,
Guam Legislature Temporary Bldg., Agana, Guam**

The Public is invited to participate

*Revised date
PROVIDAT
MAY 13, 1996*

*194-0543 (02)
MAR 15 1996
PEREZ*

*Rec'd 5/8/96
Fransquelli*

MAR 06 1996
BBMR-F7

FISCAL NOTE
BUREAU OF BUDGET AND MANAGEMENT RESEARCH

Bill Number: 465
Amendatory Bill: No

Date Received: January 09, 1996
Date Reviewed: March 05, 1996

Department/Agency Affected: Department of Revenue & Taxation

Department/Agency Head: Joseph Duenas, Director

Total FY Appropriation to Date: \$12,414,644

Bill Title (preamble): AN ACT ADD A NEW CHAPTER 12 TO TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO REGULATING THE TOWING INDUSTRY.

Change in Law: N/A

Bill's Impact on Present Program Funding:

Increase XXX Decrease _____ Reallocation _____ No Change _____

Bill is for:

Operations XXX Capital Improvement _____ Other _____

FINANCIAL/PROGRAM IMPACT

ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)			
PROGRAM CATEGORY	GENERAL FUND	OTHER	TOTAL
<i>Economics & Finance</i>	<u>1/</u>		

ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL	<u>1/</u>					
OTHER						
TOTAL						

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? Yes-- IF NO, ADD'L AMOUNT REQUIRED \$ N/A

AGENCY/PERSON/DATE CONTACTED: _____

ESTIMATED POTENTIAL MULTI-YEAR REVENUES						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND	<u>N/A</u>					
OTHER						
TOTAL						

ANALYST ML
Maerica M. Dizon

DATE 3/05/96 DIRECTOR Francis Balagadia
Joseph E. Rivera, Acting

DATE MAR 06 1996

FOOTNOTES: *See attached.*

11

Although Bill 465 appears administrative in nature it still has a fiscal effect on the Government of Guam's General Fund. The cost of the implementation of the bill if it is passed into law, as well as the costs of the administrative provisions which will be overseen by the Department of Revenue & Taxation. Such costs are taken into account in the respective operational budget of the department.

JAN 04 1996

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) REGULAR SESSION

Bill No. 465 (LS)

Introduced by:

M.C. Charfauros
A.L.G. Santos
S. L. Orsini

**AN ACT TO ADD A NEW CHAPTER 12 TO TITLE 16, GUAM CODE ANNOTATED,
RELATIVE TO REGULATING THE TOWING INDUSTRY.**

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

2 **Section 1. Short title.** This chapter is known as the "Tow Truck and Impound
3 Regulation Act."

4 **Section 2. Legislative Findings and Intent.** The Legislature finds that the towing
5 industry has had the freedom to operate without any type of regulation for many years. The
6 Legislature finds that the lack of regulation has allowed certain companies to charge unfair
7 rates in certain situations. The Legislature further finds that safety issues regarding the
8 operation of tow trucks must be addressed through proper regulation and control. It is the
9 intent of this Legislature to regulate the towing industry by mandating the establishment of
10 maximum rates such businesses may charge in certain situations. It is also the intent of this
11 Legislature to address safety issues regarding the operation of tow trucks through the
12 establishment and regulation of license and inspection procedures.

13 **Section 3. A new Chapter 12 is added to Title 16 GCA to read as follows:**

14 "Chapter 12

15 Tow Trucks

16 **§12101. Definitions.**

17 **§12102. Business Requirements**

18 **§12103. Duties**

19 **§12104. Notice Requirements**

20 **§12101. Definitions.** As used in this Chapter:

1 (1) "Tow truck" means a motor vehicle constructed, designed, altered, or equipped
2 primarily for the purpose of towing or removing vehicles from a highway by means of a crane,
3 hoist, tow bar, tow line, dolly, or other means.

4 (2) "Tow truck business" means an enterprise that provides tow truck services.

5 (3) "Tow truck service" means the transportation on a highway of damaged, disabled,
6 abandoned, seized, or impounded vehicles by a tow truck.

7 **§12102. Tow truck business requirements.** A person who operates a tow truck
8 business shall: (1) comply with equipment requirements under §12103 of this Chapter;

9 (2) ensure that all his tow truck drivers are properly:

10 (a) trained to operate tow truck equipment; and

11 (b) licensed, as required under Article 1, Chapter 3, of this Title; and

12 (3) obtain and display a current certificate of inspection for each tow truck, as required
13 under §12103 of this Chapter.

14 **§12103. Department of Revenue and Taxation duties; Inspections; Equipment**
15 **requirements; Rulemaking.**

16 (1) (a) The Department of Revenue and Taxation shall conduct inspections of tow
17 trucks to ensure compliance with the provisions of this chapter.

18 (b) Each inspection of a tow truck shall be conducted prior to the tow truck
19 beginning operation and at least every year thereafter.

20 (c) (i) The Department of Revenue and Taxation shall issue a certificate of
21 inspection for each tow truck that complies with the provisions of this article.

22 (ii) The inspection certificate shall expire one year from the month of issuance.

23 (d) The Department of Revenue and Taxation may charge a fee to cover the cost
24 of the inspection required under this section, subject to the Administrative Adjudication Act,

25 (2) The Department of Revenue and Taxation shall promulgate rules specifying the
26 equipment required to be carried on each tow truck, including limits on loads that may be
27 moved based on equipment capacity and load weight. The rules shall be adopted in

1 conformance with the Administrative Adjudication Act.

2 **§12104. Towing notice requirements; Cost responsibilities; Abandoned vehicle**
3 **title restrictions.** (1) Unless a vehicle is impounded under §18112 of this Title, after
4 performing a tow truck service without the vehicle owner's knowledge, the person operating
5 the tow truck shall:

6 (a) within one hour of arriving at the place of storage or impound of the vehicle,
7 contact the law enforcement agency having jurisdiction over the area where the vehicle was
8 picked-up and notify the agency of the:

9 (i) location of the vehicle;

10 (ii) date, time, and location from which the vehicle was removed;

11 (iii) reasons for the removal of the vehicle;

12 (iv) person who requested the removal of the vehicle; and

13 (v) vehicle's description, including its identification number and license number;

14 and

15 (b) within five days of performing the tow truck service, send a certified letter to
16 the last known address of the registered owner of the vehicle obtained from the Division of
17 Motor Vehicles or if the person has actual knowledge of the owner's address to the current
18 address, notifying him of the:

19 (i) location of vehicle;

20 (ii) date, time, location from which the vehicle was removed;

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

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

23 (v) vehicle's description, including its identification number and license number;

24 and

25 (vi) costs and procedures to retrieve the vehicle.

26 (2) The registered owner of a vehicle lawfully removed is responsible for paying the
27 towing, impound, and storage fees.

1 (3) Towing, impound, and storage fees are a lien on the vehicle until paid.

2 (4) A person may not request a transfer of title to an abandoned vehicle until at least
3 30 days after notice has been sent under Subsection (1)(b).

4 **§12105. Tow Truck and Impound Regulation; Rates.** The Director of the
5 Department of Revenue and Taxation shall promulgate, in accordance with the Administrative
6 Adjudication Law, rules and regulations:

7 (1) (a) establishing maximum rates tow truck businesses may charge for the towing of
8 vehicles that are transported in response to:

9 (i) a peace officer dispatch call;

10 (ii) a Motor Vehicle Division call; and

11 (iii) any other call where the owner of the vehicle has not consented to removal
12 of his vehicle.

13 (b) establishing maximum rates impound yards may charge for the storage of
14 vehicles stored as a result of:

15 (i) a peace officer dispatch call;

16 (ii) a Motor Vehicle Division call; and

17 (iii) any other call where the owner of the vehicle has not consented to the
18 storage of his vehicle.

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

26 **Section 4. Effective Date.** This Act shall become effective sixty (60) after its
27 enactment.