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I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
THIRTY-SECOND GUAM LEGISLATURE
155 Hesler Place, Hagåtña, Guam 96910

November 13, 2013

The Honorable Edward J.B. Calvo
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
***Hagåtña,* Guam 96910**

OFFICE OF THE GOVERNOR
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J. Dela Rosa
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TIME 11:28 AM DATE 11/15/13

Dear *Maga'lahi* Calvo:

Transmitted herewith are Bill and Substitute Bill Nos. 35-32(COR), 74-32(LS), 75-32(LS), 91-32(COR), 94-32(COR), 98-32(LS), 99-32(LS), 108-32(COR), 112-32(COR), 116-32(COR), 133-32(COR), 134-32(COR), 140-32(COR), 141-32(COR), 143-32(COR), 145-32(LS), 150-32(COR), 153-32(COR), 154-32(COR), 156-32(COR), 157-32(COR), 158-32(COR), 160-32(COR), 161-32(COR), 162-32(LS), 165-32(COR), 170-32(LS), 176-32(COR), 189-32(COR), 193-32(COR), 194-32(COR), 195-32(COR), 196-32(COR), 200-32(COR), 205-32(COR), 210-32(COR), 211-32(COR) and 217-32(LS) which were passed by *I Mina'Trentai Dos Na Liheslaturan Guåhan* on November 12, 2013.

Sincerely,

Tina Rose Muña Barnes
Legislative Secretary

Enclosures (38)

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

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

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

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

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

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

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

Bill No. 210-32 (COR)
As amended by the Committee on Aviation, Ground Transportation, Regulatory Concerns and Future Generations; and further amended on the Floor.

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

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

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Short Title. This Act *shall* be cited as the "Responsible Lienholder and Insurer Towing Information Act."

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

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

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

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

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

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

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

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

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

"**§ 12104. Towing Notice Requirements; Cost Responsibilities.**

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

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

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

(A) location of the vehicle;

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

(C) reasons for the removal of the vehicle;

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

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

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

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

(A) location of vehicle;

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

(C) reasons for the removal of the vehicle;

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

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

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

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

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

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

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

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

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

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

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

(1) a peace officer dispatch call;

(2) a Motor Vehicle Division call; and

(3) any other call where the legal owner, registered owner, insurance company, and lienholder of the vehicle has *not* consented to removal of his vehicle.

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

(1) a peace officer dispatch call;

(2) a Motor Vehicle Division call; and

(3) any other call where the legal owner, registered owner, insurance company, and lienholder of the vehicle has not consented to the storage of his vehicle.

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

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

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

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

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

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

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

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

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