






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

Bill No. 210-32(COR)

Introduced by:

Michael F.Q. San Nicolas 
V.C. Pangelinan 
T.C. Ada 
B.J.F. Cruz 
Brant T. McCreadie 

AN ACT TO ADD A NEW (yy) TO §1102, CHAPTER 1,
AND AMEND §§ 12104, 12106, AND 12107, OF
CHAPTER 12, EACH OF TITLE 16, GUAM CODE
ANNOTATED, RELATIVE TO INFORMING THE
LIENHOLDER AND INSURER WHEN A VEHICLE
HAS BEEN TOWED AND PROVIDING FOR THE
LIABILITY OF A TOWING COMPANY FOR
DAMAGE SUSTAINED BY A VEHICLE WHILE IN ITS
CUSTODY.

2013 OCT 17 AM 9:20 

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

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

4 Section 2. Legislative Findings and Intent. I Liheslaturan Guåhan
5 finds that Public Law 23-144 requires that registered owners be informed
6 within five (5) days of when their vehicle has been towed without the

1 owner's knowledge, notifying the individual of the circumstances under
2 which the vehicle was towed and how to retrieve the vehicle.

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

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

16 **Section 3. Definition of Vehicle Condition Report.** A *new* (yy) is
17 hereby *added* to §1102, Chapter 1, Title 16, Guam Code Annotated, to read:

18 "(yy) 'Vehicle condition report' means a report completed by a
19 person operating a tow truck performing a tow truck service which
20 documents damage to the vehicle on which the service is performed,
21 including comprehensive notes, diagrams and photographic evidence,
22 either analog or digital, to establish the condition of a vehicle when such
23 vehicle is taken into custody of such operator."

1 **Section 4. Towing Notice Requirements; Cost Responsibilities.**

2 §12104 of Chapter 12, Title 16, Guam Code Annotated, is hereby *amended*,
3 to read:

4 “§ 12104. **Towing Notice Requirements; Cost Responsibilities.**

5 (1) Unless a vehicle is impounded under § 3606 of this Title, after
6 performing a tow truck service without the vehicle owner's knowledge, the
7 person operating the tow truck *shall*:

8 (a) complete a vehicle condition report, as defined in 16 GCA
9 §1102(yy);

10 (b) within one hour of arriving at the place of storage or
11 impound of the vehicle, contact the law enforcement agency having
12 jurisdiction over the area where the vehicle was picked-up and notify
13 the agency of the:

14 (i) location of the vehicle;

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

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

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

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

21 (c)(b) within two (2) five days of performing the tow truck
22 service, send a certified letter to the last known address of the legal
23 owner, registered owner, vehicle insurer, and lienholder, where

1 applicable, of the vehicle obtained from the Division of Motor
2 Vehicles ~~or if the person has actual knowledge of the owner's address~~
3 ~~to the current address~~, notifying him/them of the:

4 (i) location of vehicle;

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

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

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

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

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

12 (vii) a copy of the vehicle condition report required by
13 subsection (a) of this section.

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

1 (2) The registered owner of a vehicle lawfully removed is responsible
2 for paying the towing, impound, and storage fees, unless the vehicle was
3 stolen or taken without the consent of the owner in which case the parties
4 responsible for such actions *shall* be liable for the cost incurred in removal
5 of said vehicle, except that, if the tow truck operator has failed to notify any
6 of the persons within two (2) days by certified mail pursuant to subsection
7 (1)(c) of this section, all such fees as required by this subsection shall be
8 waived. A person towing a vehicle relative to this section but both failing
9 to notify all individuals pursuant to subsection (1)(c) of this section and
10 failing to waive fees as provided by this subsection shall be guilty of a
11 misdemeanor. Further, in such event the tow truck operator shall be liable
12 to a person entitled to be given notice but not given notice as provided
13 herein for losses arising from such person's inability as a result of such
14 failure to give notice to locate, obtain possession of, or deliver to, any other
15 person possession of the vehicle.

16 (3) A person towing a vehicle pursuant to this section shall be liable
17 for the cost of repair or replacement, as applicable, for any damage
18 sustained by a vehicle while in the custody of such person in excess of any
19 existing damage at the time of towing, as documented by the vehicle
20 condition report required by subsection (1)(a) of this section.

21 **Section 5. Towing Notice Requirements; Cost Responsibilities.**
22 §12106 of Chapter 12, Title 16, Guam Code Annotated, is hereby *amended*,
23 to read:

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

2 The Director of the Department of Revenue and Taxation *shall*
3 promulgate, in accordance with the Administrative Adjudication Law,
4 rules and regulations:

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

7 (i) a peace officer dispatch call;

8 (ii) a Motor Vehicle Division call; and

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

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

14 (i) a peace officer dispatch call;

15 (ii) a Motor Vehicle Division call; and

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

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

21 (d) establishing any other procedures or requirements that the
22 Director deems appropriate to ensure that tow truck businesses are
23 operated efficiently and safely and to ensure that residents are

1 provided with adequate tow truck service. Such regulations *shall*
2 provide for the suspension or termination of tow truck driver's
3 licenses of individual tow truck drivers and for the suspension or
4 termination of the business licenses of tow truck companies when the
5 Director finds either such individuals or companies in substantial
6 noncompliance with the regulations promulgated pursuant to this
7 Section."

8 **Section 6. Towing Notice Requirements; Cost Responsibilities.**

9 §12107 of Chapter 12, Title 16, Guam Code Annotated, is hereby *amended*,
10 to read:

11 **"§ 12107. Lien on Towed Vehicles; Lien Holders' Sale.**

12 (1) Notwithstanding any other provision of law, unless a vehicle is
13 impounded under § 3606 of this Title, every tow truck business, who, while
14 lawfully in possession of a vehicle renders towing, impound, and/or
15 storage services in response to a peace officer dispatch call; a Motor Vehicle
16 Division call; and any other call where the legal owner, registered owner,
17 insurance company, and lienholder of the vehicle has not consented to
18 removal of his vehicle; has a lien thereon, dependent upon possession, for
19 the compensation, if any, which is due him from the legal owner,
20 registered owner, insurance company, or lienholder for such service. If
21 there is a prior lien on said vehicle the tow truck business may record a
22 second lien on said vehicle. Any tow truck business may retain possession
23 of the same until the charges are paid.

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

8 **Section 7. Severability.** *If* any provision of this Act or its application
9 to any person or circumstance is found to be invalid or contrary to law,
10 such invalidity *shall* not affect other provisions or applications of this Act
11 which can be given effect without the invalid provisions or application,
12 and to this end the provisions of this Act are severable.