
A BILL FOR AN ACT

RELATING TO DRIVER LICENSING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to address a
2 decision by the Hawaii intermediate court of appeals that would
3 make it difficult, if not impossible, for the State to prove
4 that the defendant drove without a license. The Hawaii
5 intermediate court of appeals in *State v. Matautia*, 81 Haw. 76
6 (1996), interpreted the law in a way that was not intended by
7 the legislature. The court ruled that in a case involving
8 driving without a license, the State must prove that the
9 defendant:

- 10 (1) Operated any category of motor vehicle in section 286-
11 102;
- 12 (2) Was not first "appropriately examined and duly
13 licensed as a qualified driver of the category of
14 motor vehicles;" and
- 15 (3) Was not excepted by statute from driver's licensing
16 requirements.

17 As a practical matter, the decision required the State to
18 prove, among other issues, that the defendant did not possess a



1 valid driver's license from another accepted jurisdiction.
2 However, retrieving this information is very difficult because
3 there is no available network that links the driver's license
4 databases for all accepted jurisdictions, including the United
5 States or the provinces or states of Canada or Mexico. Thus,
6 inquiries to all of the individual states or provinces must be
7 conducted separately. Given that each year there are over
8 seventeen thousand cases involving driving without a license
9 statewide, and over eleven thousand cases involving driving
10 without a license in the city and county of Honolulu alone,
11 there are insufficient time and resources to send inquiries to
12 all of these jurisdictions in each and every case involving
13 driving without a license. The legislature did not intend that
14 the burden of proof lie with the State in this manner.

15 The inability of the State to prove that a motorist is not
16 validly licensed in other jurisdictions has markedly raised the
17 number of motorists found not guilty of driving without a
18 license and adversely affects the State's efforts to promote
19 traffic safety on Hawaii's roadways.

20 The purpose of this Act is to provide that possession of an
21 out-of-state license is an affirmative defense that is available
22 to the defendant after the State proves that the defendant did



1 not possess a valid Hawaii's driver's license as required by
2 state law.

3 SECTION 2. Section 286-105, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§286-105 What persons are exempt from license**[+];
6 **affirmative defense.** The following persons are exempt from
7 license[+]; provided that it shall be an affirmative defense to
8 a violation of section 286-102 that the person:

9 (1) [~~Any person while~~] Was driving or operating a motor
10 vehicle in the service or employ of any branch or
11 agency of the federal government; provided that the
12 person has received a license or permit from the
13 branch or agency to operate and drive the motor
14 vehicle; provided further that the branch or agency
15 has been duly authorized by the federal government to
16 issue the license or permit;

17 (2) [~~Any person while~~] Was driving or operating any road
18 machine, farm tractor, or implement of husbandry
19 temporarily operated or moved on a highway; provided
20 that no person under the age of thirteen years shall
21 be permitted to drive or operate any such road



1 machine, farm tractor, or implement of husbandry on a
2 highway;

3 (3) [~~Any person who is~~] Was at least eighteen years of age
4 and [~~who has~~] had in the person's possession a valid
5 driver's license to drive the categories of motor
6 vehicles listed in section 286-102(b), except section
7 286-102(b)(4), that is equivalent to a driver's
8 license issued in this State but was issued to the
9 person in another state of the United States, the
10 Commonwealth of Puerto Rico, United States Virgin
11 Islands, American Samoa, Guam, a province of [~~the~~
12 ~~Dominion of~~] Canada, or the Commonwealth of the
13 Northern Mariana Islands for that category of motor
14 vehicle which the person is operating;

15 (4) [~~Any person who has~~] Had in the person's possession a
16 valid commercial motor vehicle driver's license issued
17 by any state of the United States, Mexico, or a
18 province of [~~the Dominion of~~] Canada that issues
19 licenses in accordance with the minimum federal
20 standards for the issuance of commercial motor vehicle
21 driver's licenses; [~~and~~] or



1 (5) ~~[Any person who drives or operates]~~ Did drive or
2 operate a state or county motor [vehicles] vehicle
3 while employed by, in the service of, or volunteering
4 for the state or county fire departments~~[,]~~; provided
5 that ~~[they are]~~ the person was trained and certified
6 to drive category (4) motor vehicles as set forth in
7 section 286-102(b) (4) by the state or county
8 government, as appropriate~~[, and]~~; provided further
9 that the person maintains a category (3) license as
10 set forth in section 286-102(b) (3)."

11 SECTION 4. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun, before its effective date.

14 SECTION 5. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 6. This Act shall take effect upon its approval.

Report Title:

Driver Licensing

Description:

Specifies that proof that a defendant possessed an out-of-state driver's license is an affirmative defense to the charge of driving without a license, that must be proved by the defendant.
(HB1159 HD1)

