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# A BILL FOR AN ACT

RELATING TO UNATTENDED CHILDREN IN MOTOR VEHICLES.

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

1           SECTION 1. The legislature finds that leaving a child  
2 unattended in a car can too often have tragic consequences,  
3 either because the child suffers from exposure to excessive  
4 heat, is injured when the car is stolen, releases the emergency  
5 brake, inadvertently starts the car, or puts the car in gear.  
6 On average, 36 children per year across the country die in hot  
7 vehicles. About 40 per cent of those deaths occur when  
8 caregivers forget that children are in the car. About 20 per  
9 cent of children who die are intentionally left in vehicles by  
10 caregivers who do not know any better.

11           The legislature notes that with an outside temperature of  
12 approximately 85 degrees, the inside air temperature in a car  
13 will reach 130 degrees or more. Under those conditions, a small  
14 child, whose body temperature increases three to five times  
15 faster than an adult's, can succumb to the heat in as short a  
16 time as 15 minutes. External temperatures as low as 66 degrees  
17 can be fatal. As a result, the five-minute trip to the bank  
18 that ends up taking a half-hour can be deadly.



1           The legislature further finds that Hawaii is not immune to  
2 this problem. Four times within seven months in 2005, children  
3 were left in cars that were stolen. Since 2003, three children  
4 have died from heat stroke after being left unattended in a car  
5 by a parent or caregiver. Parents and caregivers know it is not  
6 safe to leave children home alone and unattended, but they  
7 continue to leave children unattended in a car even though it is  
8 just as dangerous, or more so.

9           Accordingly, the legislature declares that it is the policy  
10 of the State that children should never be left unattended in  
11 vehicles under any circumstances. Stronger laws would also give  
12 law enforcement a preventive tool with which to work, that would  
13 have an effect similar to the effect of seat belt and child  
14 safety seat laws.

15           The legislature also finds that under current law, a police  
16 officer has only two choices when confronted with children left  
17 unattended in a car: either try to educate the parent or  
18 caregiver with a stern lecture or call child protective services  
19 and initiate a case for child endangerment. Since there is no  
20 law prohibiting this conduct, the first option provides little  
21 leverage to change it. The second option may be too draconian  
22 under the particular circumstances at hand. While current law



1 permits criminal charges to be made in egregious circumstances,  
2 a less severe sanction is appropriate to deter this conduct when  
3 the circumstances do not warrant a criminal prosecution. For  
4 example, state law already takes a similar approach to speeding.  
5 Police officers are authorized to issue citations for speeding  
6 if the circumstances do not warrant arresting the driver for  
7 reckless driving. It simply makes no sense to say that we  
8 should not issue speeding tickets because the driver can always  
9 be charged with negligent homicide or manslaughter if someone  
10 happens to be killed by the speeding driver.

11 The purpose of this Act is to protect the children of  
12 Hawaii by prohibiting operators and adult passengers of motor  
13 vehicles from leaving the vehicle with an unattended child  
14 inside for five minutes or more. This Act makes such conduct a  
15 violation of the statewide traffic code for which a violator may  
16 only be fined, and not a crime. Together with requirements that  
17 knowledge of the prohibition be tested on the driver's  
18 examination and rental car companies provide notice of the  
19 prohibition to renters, the prohibition will allow police to  
20 take concrete action to protect Hawaii's children. Although  
21 existing criminal laws can be used to sanction this behavior  
22 when injury or death results, it will be too late for the child



1 in that case. Hawaii needs a way to deter this conduct when the  
2 child is not injured or killed, but before the ultimate tragedy  
3 strikes.

4 SECTION 2. Chapter 291C, Hawaii Revised Statutes, is  
5 amended by adding a new section to be appropriately designated  
6 and to read as follows:

7 "§291C- Leaving a child unattended in a motor vehicle.

8 (a) Notwithstanding chapter 571 or any other law to the  
9 contrary, a person violates this section if the person, being  
10 the operator or an adult passenger of a motor vehicle, leaves  
11 the motor vehicle for five minutes or longer when an unattended  
12 child is inside the vehicle, regardless of whether the operator  
13 or adult passenger is charged with the care or custody of the  
14 child.

15 (b) Any law enforcement officer, firefighter, or rescue  
16 team member who observes a child left unattended in a motor  
17 vehicle and determines that the unattended child is in physical  
18 danger or poses a danger to others may use whatever means that  
19 are reasonably necessary to protect the child or others and  
20 remove the child from the motor vehicle. If the person who left  
21 the unattended child in the vehicle cannot be located within a  
22 reasonable time, the law enforcement officer, firefighter, or



1 rescue team member, upon removing the child from the motor  
2 vehicle, shall immediately report the matter to a police  
3 officer, as defined under section 587-2, who may assume  
4 protective custody of the child without a court order and  
5 without the consent of the child's family.

6 (c) Law enforcement officers, firefighters, and rescue  
7 team members shall not be liable in any civil action to any  
8 party for any act performed in good faith under this section.

9 (d) As used in this section:

10 "Child" means a person under the age of nine.

11 "Rescue team members" means physicians, basic life support  
12 personnel, advanced life support personnel, surgeons, nurses,  
13 volunteers, or employees of the owners or operators of a  
14 hospital or authorized emergency vehicle who have been trained  
15 in basic or advanced life support and have been charged by the  
16 owners or operators of the hospital or authorized emergency  
17 vehicle with providing life support and resuscitation to persons  
18 who are in immediate danger of loss of life in cases of  
19 emergency.

20 "Unattended" means leaving a child:

21 (1) Alone in a motor vehicle; or



1        (2) In a motor vehicle with a minor under the age of  
2                    twelve."

3            SECTION 3. Section 286-108, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5            "(a) Except as provided in section 286-107.5(a), the  
6 examiner of drivers shall examine every applicant for a driver's  
7 license, except as otherwise provided in this part. The  
8 examination shall include a test of:

9            (1) The applicant's eyesight and any further physical  
10                    examination that the examiner of drivers finds  
11                    necessary to determine the applicant's fitness to  
12                    operate a motor vehicle safely upon the highways;

13            (2) The applicant's ability to understand highway signs  
14                    regulating, warning, and directing traffic;

15            (3) The applicant's knowledge of the rules of the road  
16                    based on the traffic laws of the State and the traffic  
17                    ordinances of the county where the applicant resides  
18                    or intends to operate a motor vehicle; provided that  
19                    the examination shall specifically test the  
20                    applicant's knowledge of the provisions of section  
21                    291C-     ; and



1           (4) The actual demonstration of ability to exercise  
2           ordinary and reasonable control in the operation of a  
3           motor vehicle.

4 The examinations shall be appropriate to the operation of the  
5 category of motor vehicle for which the applicant seeks to be  
6 licensed and shall be conducted as required by the director.

7           The examiner of drivers shall require every applicant to  
8 comply with section 286-102.5.

9           The examiner of drivers may waive the actual demonstration  
10 of ability to operate a motorcycle or motor scooter for any  
11 person who furnishes evidence, to the satisfaction of the  
12 examiner of drivers, that the person has completed the  
13 motorcycle education course approved by the director in  
14 accordance with section 431:10G-104.

15           At the time of examination, an application for voter  
16 registration by mail shall be made available to every applicant  
17 for a driver's license.

18           For the purposes of this section, the term "applicant" does  
19 not include any person reactivating a license under section  
20 286-107.5(a)."



1 SECTION 4. Section 437D-13, Hawaii Revised Statutes, is  
2 amended by amending its title and subsection (a) to read as  
3 follows:

4 "§437D-13 Notice and posting required concerning [~~seat~~  
5 ~~belt, child passenger restraint, and operating a vehicle under~~  
6 ~~the influence~~] motor vehicle laws. (a) Every lessor shall  
7 display at all times in a conspicuous place in each rental motor  
8 vehicle offered to the public, a decal, written in plain  
9 language and in no less than ten-point type, that informs the  
10 lessee of:

11 (1) Hawaii's seat belt and child passenger restraint laws  
12 [~~and~~], the prohibition against operating a vehicle  
13 under the influence of an intoxicant[~~+~~], and leaving a  
14 child unattended in a motor vehicle; and

15 (2) The existence and location of additional information  
16 concerning the laws relating to seat belts, child  
17 passenger restraints, [~~and~~] operating a vehicle under  
18 the influence of an intoxicant[~~-~~], and leaving a child  
19 unattended in a motor vehicle.

20 The requirements and penalties of Hawaii's seat belt laws and  
21 child passenger restraint laws, as provided in sections 291-11.5  
22 and 291-11.6, and the prohibition against and penalties for



1 operating a vehicle under the influence of an intoxicant, as  
2 provided in section 291E-61, and leaving a child unattended in a  
3 motor vehicle, as provided in section 291C-\_\_\_, shall be printed  
4 on a card which shall be placed in the glove compartment of  
5 every rental motor vehicle offered to the public."

6 SECTION 5. This Act does not affect rights and duties that  
7 matured, penalties that were incurred, and proceedings that were  
8 begun, before its effective date.

9 SECTION 6. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 7. This Act shall take effect upon its approval;  
12 provided that sections 3 and 4 shall take effect on October 1,  
13 2008; provided further that the amendments made to section 286-  
14 108, Hawaii Revised Statutes, by section 3 of this Act shall not  
15 be repealed when that section is reenacted on January 9, 2011,  
16 pursuant to section 15 of Act 72, Session Laws of Hawaii 2005.



**Report Title:**

Motor Vehicles; Unattended Children

**Description:**

Makes it a violation of the statewide traffic code to leave a child unattended in a motor vehicle. Effective on approval. Requires the examiner of drivers to test driver's license applicants for knowledge of this offense. Requires notice of law in rental cars. Effective on 10/1/2008. (SB2245 HD1)

