# A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE KEY INFORMATION ACCESS.

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

1      SECTION 1.  The legislature finds and declares the

2   following:

3      (1)  There are over five hundred thousand registered motor

4           vehicles in Hawaii, and those motor vehicles are an

5           essential part of Hawaii residents' work and mobility;

6      (2)  A key or functionally similar device that allows a

7           motor vehicle's registered owner to enter, start, and

8           operate the motor vehicle is a critical and necessary

9           part of motor vehicle ownership, without which a

10          person cannot perform the basic functions of gaining

11          entry to a motor vehicle or starting its engine; and

12     (3)  A registered owner of a motor vehicle has the right to

13          access the information necessary to gain entry to and

14          operate the motor vehicle in a timely, convenient, and

15          reliable manner.

16     It is the intent of the legislature to give motorists

17   better access to this necessary information, while at the same

1  time protecting the security of that information and the motor

2  vehicle.

3      The purpose of this Act is to allow appropriate motor

4  vehicle security while providing essential and necessary

5  consumer access.

6      SECTION 2.  Chapter 437, Hawaii Revised Statutes, is

7  amended by adding a new section to be appropriately designated

8  and to read as follows:

9      "**§437-    Replacement motor vehicle keys or other**

10  **functionally similar devices; twenty-four-hour availability;**

11  **exemption.**  (a)  For the purposes of this section, unless the

12  context clearly indicates otherwise, the following terms mean:

13      "House car" means a motor vehicle originally designed, or

14  permanently altered, and equipped for human habitation, or to

15  which a camper has been permanently attached.

16      "Information" includes, but is not limited to, the motor

17  vehicle's key code and, if applicable, immobilizer or access

18  code, and its successor technology and terminology.

19      "Locksmith" means a natural person who provides the

20  services of origination of a key, opening modification,

21  rekeying, recombination, repair or installation of a mechanical

22  or electronic access or locking device.  "Locksmith" does not

1    include tow truck operators who do not originate keys for locks

2    and whose locksmith services are limited to motor vehicles.

3        "Manufacturer" means any person, resident or nonresident,

4    who is engaged in the business of manufacturing or assembling

5    new motor vehicles or a designated agent by contract.

6        "Motor vehicle" means a passenger vehicle as defined in

7    section 437-1.1 and a pickup truck, and does not include a house

8    car, a motorcycle as defined in section 286-2, or other two-

9    wheeled motor vehicle.

10       "Pickup truck" means a motor vehicle designed, used, or

11   maintained primarily for the transportation of property with a

12   manufacturer's gross vehicle weight rating of less than eleven

13   thousand one hundred pounds, an unladen weight of less than

14   eight thousand one pounds, and which is equipped with an open

15   box-type bed not exceeding nine feet in length.  "Pickup truck"

16   does not include a motor vehicle otherwise meeting the above

17   definition that is equipped with a bed-mounted storage

18   compartment unit commonly called a "utility body".

19       "Registered locksmith" means a locksmith who has undergone

20   a background check by a nationally recognized association, is

21   bonded in the State, and has registered with a manufacturer and

1   has been issued a registry number and security password by the

2   manufacturer.

3       "Registered owner" means "owner" as defined in section 286-

4   2, and also includes a lessee of the motor vehicle when the

5   lessee's name appears on the motor vehicle registration.

6       (b)  Except as provided in subsection (g), this section

7   applies only to new motor vehicles sold or leased in the State

8   after December 31, 2007.

9       (c)  A manufacturer of a motor vehicle sold or leased in

10  the State shall provide the means whereby the registered owner

11  of that motor vehicle, through a registered locksmith, can

12  access only the information that is necessary to permit the

13  production of a replacement key or other functionally similar

14  device by the registered locksmith that will allow the motor

15  vehicle's registered owner to enter, start, and operate the

16  motor vehicle.  The means to access this information shall be

17  available by telephone or electronically twenty-four hours a day

18  and seven days a week, as provided in subsections (d) to (f).

19      (d)  When a registered locksmith is requested by the motor

20  vehicle's registered owner or the registered owner's family

21  member to produce a replacement key or other functionally

22  similar device that will allow the motor vehicle to be entered,

1 started, and operated, and the information is needed from the

2 manufacturer in order to produce the requested key or other

3 functionally similar device, the registered locksmith shall:

4     (1) Obtain the name, address, telephone number, if any,

5           date of birth, and driver's license number or

6           identification number of the person requesting or

7           purchasing the key;

8     (2) Obtain the registration or identification number,

9           license number, year, make, model, color, and vehicle

10          identification number of the motor vehicle for which

11          the key is to be made;

12     (3) Visually verify the identity of the requesting party

13          through that party's driver's license;

14     (4) Visually verify that the registration of the motor

15          vehicle matches the requesting party's identity and

16          address (or last name and address if the requesting

17          party is a family member of the registered owner); and

18     (5) Visually verify that the vehicle identification number

19          of the motor vehicle matches with the vehicle

20          identification number on the registration.

21 The information required by paragraphs (1) and (2), together

22 with the date the key was made and the signature of the person

1 for whom the key was made, shall be set forth on a work order,

2 and upon satisfactory verification of the three requirements set

3 forth in paragraphs (3) to (5), the registered locksmith shall

4 sign an affidavit that the locksmith has visually verified the

5 information, and proceed to access the needed information from

6 the manufacturer.  Copies of the orders and affidavits shall be

7 retained by the registered locksmith for two years, include the

8 name of the registered locksmith performing the service, and

9 be open to inspection by any law enforcement officer during

10 business hours.

11     (e)  Upon completing the services, the registered locksmith

12 shall give any key code information obtained from the

13 manufacturer to the registered owner, or if applicable, the

14 owner's family member, and shall destroy all information

15 accessed from the manufacturer in the locksmith's possession.

16     (f)  After a request is received from a registered

17 locksmith for information to enable the registered locksmith to

18 produce a replacement key or other functionally similar device

19 that will allow the motor vehicle to be entered, started, and

20 operated, and that request is made at the request of the motor

21 vehicle's registered owner or the registered owner's family

22 member, the manufacturer shall:

1       (1)  Require the registered locksmith to confirm the

2             locksmith's registration with the manufacturer's

3             registry;

4       (2)  Provide the security password issued by the

5             manufacturer, and comply with any other reasonable

6             authentication procedure; and

7       (3)  Require the registered locksmith to confirm the

8             registered locksmith's visual identity and motor

9             vehicle verifications, pursuant to paragraph (1).

10 Upon satisfactory verification of these requirements, and upon

11 presentation of the vehicle identification number and model

12 number, the manufacturer shall provide to the registered

13 locksmith, for the motor vehicle identified by the vehicle

14 identification number and model number, the information

15 necessary to enable production of a replacement key or other

16 functionally similar device that allows the motor vehicle to be

17 entered, started, and operated.

18       (g)  Except in cases of fraud or misappropriation, a

19 registered locksmith who follows the procedures set forth in

20 this section shall incur no liability for theft of the motor

21 vehicle related to the registered locksmith's production of a

1 replacement key or functionally similar device that will allow

2 the motor vehicle to be entered, started, and operated.

3    (h)  A manufacturer subject to this section shall retain

4 and make the information available in accordance with this

5 section for not less than twenty-five years from the date of

6 manufacture.

7    (i)  A manufacturer that follows the procedures set forth

8 in this section shall incur no liability for theft of the motor

9 vehicle related to furnishing the information to a registered

10 locksmith for the production of a replacement key or

11 functionally similar device that will allow the motor vehicle to

12 be entered, started, and operated.

13    (j)  This section shall not apply to a make of a motor

14 vehicle that sold fewer than one hundred vehicles in the State

15 during the prior calendar year."

16    SECTION 3.  If any provision of this Act, or the

17 application thereof to any person or circumstance is held

18 invalid, the invalidity does not affect other provisions or

19 applications of the Act, which can be given effect without the

20 invalid provision or application, and to this end the provisions

21 of this Act are severable.

22    SECTION 4.  New statutory material is underscored.

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1        SECTION 5.   This Act shall take effect on January 1, 2050.

**Report Title:**
Motor Vehicles

**Description:**
Requires motor vehicle manufacturers to allow registered owners
through a registered locksmith to access information necessary
to produce replacement keys. (SD1)