

JAN 22 2007

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# A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE INSURANCE.

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

1           SECTION 1. Chapter 287, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4           **"PART           UNINSURED MOTORIST INSURANCE SPECIAL**

5                               **AND REVOLVING FUND PROGRAM**

6                                       **A. General Provisions**

7           **§287-A Uninsured motorist insurance state fund program**  
8 **established; special revolving account.** (a) There is  
9 established within the department of budget and finance the  
10 uninsured motorist insurance state fund program, hereinafter  
11 referred to as "the fund." The fund shall be under the control  
12 of the director of finance. The purpose of the fund is to  
13 collect enough moneys received as uninsured motorist insurance  
14 taxes, invest and manage them, and make premium payments on the  
15 exclusive contracts with the uninsured motorist insurers for the  
16 several counties.

17           (b) Moneys for the operation of the uninsured motorist  
18 insurance system shall be from the uninsured motorist insurance



1 taxes imposed under section 243-4 which shall be deposited into  
2 a special revolving account in the state treasury to be  
3 administered by the director. Expenditures from the account  
4 shall be used for the operation of the uninsured motorist  
5 insurance mechanism authorized under this part.

6 (c) The director may do whatever is necessary to  
7 effectuate the purposes of this subpart, including but not  
8 limited to:

- 9 (1) Acting as the head of the purchasing agency for  
10 procurement of an exclusive contract with an insurer  
11 to provide uninsured motorist insurance to each county  
12 of the State;
- 13 (2) Gathering actuarially relevant data from other state  
14 and county agencies to determine a contract price and  
15 other material items in accepting bids from insurers,  
16 to develop and maintain adequate amounts of motor  
17 vehicle taxes to be charged under chapter 243;
- 18 (3) Collecting, receiving, holding, and disbursing all  
19 moneys payable to or by the fund;
- 20 (4) Receiving moneys as set forth in section 243-4 and  
21 disbursing funds as premium payments to insurers as  
22 required under this part;



- 1 (5) Investing the fund's assets as authorized by law;
- 2 (6) Using income on investment reserves or profits to
- 3 reduce amounts needed from the uninsured motorist
- 4 insurance taxes imposed under section 243-4 as long as
- 5 the fund has reserves deemed sufficient in accordance
- 6 with sound actuarial practices to provide the
- 7 uninsured motorist insurance benefits required under
- 8 this part;
- 9 (7) Hiring or contracting for the services of attorneys,
- 10 insurance consultants, actuaries, health consultants,
- 11 motor vehicle repair consultants, certified public
- 12 accountants, insurance adjusters, investment advisers,
- 13 and other technical services;
- 14 (8) Hiring an administrator to function as the fund's
- 15 chief executive officer, and other necessary
- 16 administrative, technical, and professional employees
- 17 who shall be exempt from chapter 76;
- 18 (9) Conducting claims, studies, and other research
- 19 necessary to ensure the viability of the uninsured
- 20 motorist insurance mechanism created under this part;
- 21 and



1           (10) Proposing recommendations to the governor and the  
2           legislature on the amount of vehicle insurance taxes  
3           required to safely maintain the vehicle insurance  
4           system contemplated under this part.

5           (d) The uninsured motorist insurance premium payment  
6 mechanism created under this part shall provide for the  
7 uninsured motorist coverage required under  
8 section 431:10C-301(b)(3).

9           (e) Only persons insured under a motor vehicle insurance  
10 policy shall be entitled to receive uninsured motorist benefits  
11 through the mechanism created under this part. No person who is  
12 not insured under a motor vehicle insurance policy shall be  
13 entitled to receive uninsured motorist benefits under the  
14 mechanism created under this part.

15                           **B. Exclusive Insurer Contracts**

16           **§287-B Competitive bids for exclusive uninsured motorist**  
17 **insurance coverage.** Uninsured motorist insurance coverage for  
18 policy terms beginning on September 1, 2008, shall be provided  
19 exclusively in each county by one insurer that has been awarded  
20 the contract for providing uninsured motorist insurance policies  
21 on all vehicles registered in that county. Contracts shall be  
22 awarded as contracts for professional services under



1 chapter 103D. This section shall not preclude an insurer from  
2 being awarded the contracts for all four counties. The contract  
3 shall be for a term of three years and shall require the insurer  
4 to provide uninsured motorist insurance coverage at the premium  
5 rate schedules previously submitted in the bid proposal. The  
6 contract shall stipulate that the insurer shall be liable beyond  
7 the contract period for the processing and payment of all claims  
8 arising from an accident which occurred during the contract  
9 period.

10 **§287-C Insureds under the exclusive policies.** The  
11 director of finance shall annually provide the names of  
12 registered owners, vehicle type, registration numbers and other  
13 relevant information to the contract insurers for persons  
14 submitting payment of the state registration fees and the  
15 driver's license application and renewal fees. This information  
16 shall be used by the contract insurers to determine the number  
17 and identity of the insureds under the contracts.

18 **§287-D Rate adjustments during contract period.**  
19 Notwithstanding the rate-making procedures for motor vehicle  
20 insurance rates under article 14 of chapter 431, a contract  
21 insurer shall not make any changes to the rate schedules unless  
22 the insurer submits evidence to the director of finance that its



1 solvency is in imminent danger. No rate change shall become  
2 effective without the prior approval of the director of finance.  
3 The director of finance, in considering the necessity and  
4 reasonableness of any rate change request, shall request that  
5 the insurer furnish all financial, claims records, and other  
6 data to justify any rate change.

7       **§287-E Monitoring of contract insurer; investigation of**  
8 **complaints; examinations.** (a) The director of finance shall  
9 closely monitor the operations of a contract insurer to ensure  
10 that the processing of claims is expeditious and that the terms  
11 of the contract are being met. In carrying out its monitoring  
12 responsibilities, the director of finance shall conduct annual  
13 examinations of a contract insurer's affairs, transactions,  
14 accounts, records, documents, and assets.

15       (b) The director of finance shall investigate any  
16 complaint filed against a contract insurer by the public. If  
17 the director of finance finds that the contract insurer erred,  
18 the director of finance shall order the contract insurer to  
19 correct the error or subject the contract insurer to an  
20 appropriate penalty as authorized under this subpart. If, in  
21 the opinion of the director of finance, a contract insurer's  
22 complaints record is unacceptable, the insurer may be



1 disqualified from bidding for the next contract term. The  
2 director of finance shall adopt rules establishing specific  
3 criteria and procedures for disqualification.

4 (c) After the completion of the annual examination, the  
5 director of finance shall evaluate a contract insurer's  
6 performance. The director of finance shall include in its  
7 evaluation specific areas that require improvement and  
8 performance expectations for the ensuing year.

9 (d) The director of finance shall report annually to the  
10 legislature prior to the convening of each legislative session  
11 on the status of the uninsured motorist insurance system as  
12 operated by the contract insurers. The report shall be  
13 organized by county and include, but not be limited to, the  
14 number of insureds, claims data, complaints filed and their  
15 disposition, the director of finance's examination findings, the  
16 insurance commissioner's evaluation of the contract insurer, and  
17 recommendations for legislative action."

18 SECTION 2. Section 243-4, Hawaii Revised Statutes, is  
19 amended by amending subsections (a) and (b) to read as follows:

20 "(a) Every distributor [~~shall~~], in addition to any other  
21 taxes provided by law, shall pay a license tax to the department  
22 of taxation for each gallon of liquid fuel refined,



1 manufactured, produced, or compounded by the distributor and  
2 sold or used by the distributor in the State or imported by the  
3 distributor, or acquired by the distributor from persons who are  
4 not licensed distributors, and sold or used by the distributor  
5 in the State. Any person who sells or uses any liquid fuel  
6 knowing that the distributor from whom it was originally  
7 purchased has not paid and is not paying the tax thereon shall  
8 pay such tax as would have applied to such sale or use by the  
9 distributor. The rates of tax hereby imposed are as follows:

- 10 (1) For each gallon of diesel oil, 1 cent;
- 11 (2) For each gallon of gasoline or other aviation fuel  
12 sold for use in or used for airplanes, 1 cent;
- 13 (3) For each gallon of liquid fuel other than fuel  
14 mentioned in paragraphs (1) and (2), and other than an  
15 alternative fuel, sold or used in the city and county  
16 of Honolulu, or sold in any county for ultimate use in  
17 the city and county of Honolulu, 16 cents state tax, 9  
18 cents uninsured motorist insurance tax, and in  
19 addition thereto such amount, to be known as the "city  
20 and county of Honolulu fuel tax", as shall be levied  
21 pursuant to section 243-5;





- 1           (4) For each gallon of liquid fuel other than fuel  
2           mentioned in paragraphs (1) and (2), and other than an  
3           alternative fuel, sold or used in the county of  
4           Hawaii, or sold in any county for ultimate use in the  
5           county of Hawaii, 16 cents state tax, 9 cents  
6           uninsured motorist insurance tax, and in addition  
7           thereto such amount, to be known as the "county of  
8           Hawaii fuel tax", as shall be levied pursuant to  
9           section 243-5;
- 10          (5) For each gallon of liquid fuel other than fuel  
11          mentioned in paragraphs (1) and (2), and other than an  
12          alternative fuel, sold or used in the county of Maui,  
13          or sold in any county for ultimate use in the county  
14          of Maui, 16 cents state tax, 9 cents uninsured  
15          motorist insurance tax, and in addition thereto such  
16          amount, to be known as the "county of Maui fuel tax",  
17          as shall be levied pursuant to section 243-5; and
- 18          (6) For each gallon of liquid fuel other than fuel  
19          mentioned in paragraphs (1) and (2), and other than an  
20          alternative fuel, sold or used in the county of Kauai,  
21          or sold in any county for ultimate use in the county  
22          of Kauai, 16 cents state tax, 9 cents uninsured



1           motorist insurance tax, and in addition thereto such  
2           amount, to be known as the "county of Kauai fuel tax",  
3           as shall be levied pursuant to section 243-5.

4           If it is shown to the satisfaction of the department, based  
5           upon proper records and from such other evidence as the  
6           department may require, that liquid fuel other than fuel  
7           mentioned in paragraphs (1) and (2) is used for agricultural  
8           equipment that does not operate upon the public highways of the  
9           State, the user thereof may obtain a refund of all taxes thereon  
10          imposed by this section in excess of 1 cent per gallon. The  
11          department shall adopt rules to administer such refunds.

12          (b) Every distributor of diesel oil, in addition to the  
13          tax required by subsection (a), shall pay a license tax to the  
14          department for each gallon of such diesel oil sold or used by  
15          the distributor for operating a motor vehicle or motor vehicles  
16          upon public highways of the State. The rates of the additional  
17          tax hereby imposed are as follows:

18          (1) For each gallon of diesel oil sold or used in the city  
19          and county of Honolulu, or sold in any other county  
20          for ultimate use in the city and county of Honolulu,  
21          15 cents state tax, 9 cents uninsured motorist  
22          insurance tax, and in addition thereto such amount, to



- 1           be known as the "city and county of Honolulu fuel  
2           tax", as shall be levied pursuant to section 243-5;
- 3           (2) For each gallon of diesel oil sold or used in the  
4           county of Hawaii, or sold in any other county for  
5           ultimate use in the county of Hawaii, 15 cents state  
6           tax, 9 cents uninsured motorist insurance tax, and in  
7           addition thereto such amount, to be known as the  
8           "county of Hawaii fuel tax", as shall be levied  
9           pursuant to section 243-5;
- 10          (3) For each gallon of diesel oil sold or used in the  
11          county of Maui, or sold in any other county for  
12          ultimate use in the county of Maui, 15 cents state  
13          tax, 9 cents uninsured motorist insurance tax, and in  
14          addition thereto such amount, to be known as the  
15          "county of Maui fuel tax", as shall be levied pursuant  
16          to section 243-5; and
- 17          (4) For each gallon of diesel oil sold or used in the  
18          county of Kauai, or sold in any other county for  
19          ultimate use in the county of Kauai, 15 cents state  
20          tax, 9 cents uninsured motorist insurance tax, and in  
21          addition thereto such amount, to be known as the



1 "county of Kauai fuel tax", as shall be levied  
2 pursuant to section 243-5.

3 If any user of diesel oil furnishes a certificate, in such  
4 form as the department shall prescribe, to the distributor, or  
5 the distributor who uses diesel oil signs such certificate,  
6 certifying that the diesel oil is for use in operating a motor  
7 vehicle or motor vehicles in areas other than upon the public  
8 highways of the State, the tax as provided in paragraphs (1) to  
9 (4) shall not [~~be applicable.~~] apply. In the event a  
10 certificate is not or cannot be furnished and the diesel oil is  
11 in fact for use for operating a motor vehicle or motor vehicles  
12 in areas other than upon public highways of the State, the user  
13 thereof may obtain a refund of all taxes thereon imposed by the  
14 foregoing paragraphs. The department shall adopt rules to  
15 administer the refunding of such taxes."

16 SECTION 3. Section 243-6, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§243-6 Fuel taxes, dispositions.** (a) All fuel taxes  
19 under this chapter, except for the uninsured motorist insurance  
20 tax, shall be disposed as follows:

21 (1) The "city and county of Honolulu fuel tax" shall be  
22 paid by the department of taxation into the state



1 treasury, and shall, by the state director of finance,  
2 be paid over to the director of finance of the city  
3 and county of Honolulu for deposit into the fund known  
4 as the "highway fund" created by section 249-18[-];

5 (2) The "county of Kauai fuel tax" shall be paid by the  
6 department into the state treasury, and shall, by the  
7 state director of finance, be paid over to the  
8 director of finance of the county of Kauai for deposit  
9 into the fund known as the "highway fund" created by  
10 section 249-18[-];

11 (3) The "county of Hawaii fuel tax" shall be paid by the  
12 department into the state treasury, and shall, by the  
13 state director of finance, be paid over to the  
14 director of finance of the county of Hawaii for  
15 deposit into the fund known as the "highway fund"  
16 created by section 249-18[-]; and

17 (4) The "county of Maui fuel tax" collected on account of  
18 liquid fuel sold or used on the island of Lanai or  
19 sold elsewhere for ultimate use on the island of  
20 Lanai, shall be paid by the department into the state  
21 treasury, and shall, by the state director of finance,  
22 be paid over to the director of finance of the county



1 of Maui for deposit into the fund known as the  
2 "highway fund" created by section 249-18, for  
3 expenditure on the island of Lanai. The "county of  
4 Maui fuel tax" collected on account of liquid fuel  
5 sold or used on the island of Molokai or sold  
6 elsewhere for ultimate use on the island of Molokai,  
7 shall be paid by the department into the state  
8 treasury, and shall, by the state director of finance,  
9 be paid over to the director of finance of the county  
10 of Maui for deposit into the fund known as the  
11 "highway fund" created by section 249-18, for  
12 expenditure on the island of Molokai. The remainder  
13 of the "county of Maui fuel tax" shall be paid by the  
14 department into the state treasury, and shall, by the  
15 state director of finance, be paid over to the  
16 director of finance of the county of Maui for deposit  
17 into the fund known as the "highway fund" created by  
18 section 249-18.

19 (b) Each of the foregoing taxes shall be expended for the  
20 following purposes, for the island for which the tax revenue is  
21 specially indicated, or, if none, for the county for which the  
22 tax revenue is indicated:



1           (1) For payment of interest on and redemption of any bonds  
2           duly issued or sold on or after July 1, 1951, under  
3           chapter 47 for the financing or aiding in financing  
4           the construction of county highway tunnels, approach  
5           roads thereto, and highways. Such payments of  
6           interest and principal on the bonds when due, shall be  
7           first charges on such moneys so deposited in the  
8           fund[~~-~~];

9           (2) For acquisition, designing, construction,  
10          reconstruction, improvement, repair, and maintenance  
11          of county main and general thoroughfares, highways,  
12          and other streets, street lights, storm drains, and  
13          bridges, including costs of new land therefor, when  
14          expenditures for the foregoing purposes cannot be  
15          financed under state-federal aid projects[~~-~~];

16          (3) In the case of the city and county of Honolulu, for  
17          payment of the city and county's share in an  
18          improvement district initiated by the city and county  
19          for an improvement listed in paragraph (2) [~~above~~]  
20          which is permitted to be constructed in the city and  
21          county[~~-~~];



- 1           (4) For the construction of county highway tunnels,  
2           overpasses, underpasses, and bridges, where such  
3           improvement cannot be made under state-federal aid  
4           projects[-];
- 5           (5) For purposes and functions connected with county  
6           traffic control and preservation of safety upon the  
7           public highways and streets[-];
- 8           (6) For purposes and functions in connection with mass  
9           transit[-];
- 10          (7) For acquisition, design, construction, improvement,  
11          repair, and maintenance of bikeways[-]; and
- 12          (8) No expenditure shall be made, out of the revenues paid  
13          into any such fund, ~~which~~ that will jeopardize  
14          federal aid for highway construction.

15          (c) All revenues derived from the uninsured motorist  
16 insurance tax imposed under section 243-4 shall be paid by the  
17 department of taxation into the state treasury, and shall, by  
18 the director, be deposited into the uninsured motorist insurance  
19 special revolving account created under section 287-A."

20          SECTION 4. The selection of a contract insurer as provided  
21 in this Act shall be for the policy year beginning September 1,  
22 2009. During the interim period from the effective date of this





1 Act until September 1, 2009, all motor vehicle insurance  
2 policies issued by insurers authorized to do business in this  
3 State shall remain in force and effect under the motor vehicle  
4 insurance law in existence as of the day before the effective  
5 date of this Act. The uninsured motorist insurance state fund  
6 program shall develop an implementation plan which provides for  
7 the smooth transition from the current system of insurance to  
8 the new system created under this Act and adopt necessary rules  
9 for the bidding procedure to commence on a timely basis so that  
10 a contract is awarded before September 1, 2009. The director of  
11 finance shall submit a report to the legislature prior to the  
12 convening of the 2008 regular session on the progress of  
13 implementing the new system created by this Act and shall make  
14 appropriate recommendations for further changes to the law.

15 SECTION 5. Upon the effective date of this Act, the  
16 insurance commissioner shall assist the director of finance in  
17 developing and implementing a plan to ease the transition  
18 between the current no-fault insurance system and the State fund  
19 program. Prior to the convening of the 2008 regular session,  
20 the director of finance shall submit the transition plan to the  
21 legislature which shall include recommendations for any further



1 amendments to the insurance code and other laws that are  
2 necessary to effectuate this Act effectively.

3 SECTION 6. There is appropriated out of the general  
4 revenues of the State of Hawai'i, the sum of \$ , or so  
5 much thereof as may be necessary for fiscal year 2007-2008, and  
6 the same sum, or so much thereof as may be necessary for fiscal  
7 year 2008-2009, to the uninsured motorist insurance state fund  
8 to pay for start-up costs, including the hiring of necessary  
9 staff; provided that this appropriation shall be in the form of  
10 a loan which shall be repaid to the general fund by June 30,  
11 2012.

12 The sums appropriated shall be expended by the uninsured  
13 motorist insurance state fund for the purpose of this Act.

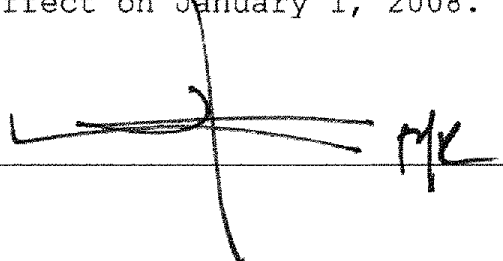
14 SECTION 7. This Act does not affect rights and duties that  
15 matured, penalties that were incurred, and proceedings that were  
16 begun before its effective date.

17 SECTION 8. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 9. This Act shall take effect on January 1, 2008.

20

INTRODUCED BY:

 MK



S.B. NO. 1594



**Report Title:**

Motor Vehicle Insurance

**Description:**

Establishes a pay-at-the-pump system of motor vehicle insurance for purposes of uninsured motorist coverage.

