

JAN 28 2009

A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE DRIVER LICENSING.

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

1 SECTION 1. The legislature finds that numerous reported
2 civil actions have been filed against the government, including
3 the State and its counties, by automobile drivers who were found
4 to be operating their motor vehicles in a negligent manner. In
5 some instances, these plaintiff motorists were found to be
6 intoxicated well beyond the legal limit or under the influence
7 of drugs or other illicit substances. These drivers claim that
8 the government, in sum and substance, has acted negligently in
9 the maintenance of the roadways, which then proximately caused
10 the accident or injury that they are involved in. During
11 litigation of these claims, both the plaintiff, the government,
12 and a third party are often times found negligent in the matter
13 and the claim is reduced accordingly under the joint and several
14 liability concept. Nonetheless, because certain tortfeasors are
15 unable to pay, the government is often paying the award in full.
16 In addition to this inequity, the legislature has elected to
17 waive the government's sovereign immunity for suit under the



1 state tort claims act in an overly generous manner that has
2 stripped the State from the reasonable opportunity to defend
3 itself, ultimately encouraging lawsuits.

4 As was stated in the committee report enacting Hawaii's
5 modern driver licensing laws, "[t]he purpose of [the law] is to
6 establish a Highway Safety Program for the State of Hawaii.
7 Deaths and injuries to persons, damage to property and other
8 losses suffered on account of highway traffic accidents are of
9 grave concern to the State and its citizens as well as to the
10 federal government." In spite of the purpose for which the
11 licensing laws were enacted, namely to prevent deaths and
12 injuries, the amount of injuries resulting from personal
13 irresponsibility for the rules of the road have gotten much
14 media coverage in present times. It is the egregious instances,
15 such as where a driver under the influence of drugs drives off a
16 cliff killing or injuring passengers, that are most remarkable;
17 remarkable in the sense that these drivers are now suing the
18 government for failure to place a sign, when a reasonable person
19 would know not to drive off the road in similar circumstances.
20 Lawsuits like these cost taxpayers millions of dollars per year
21 in awards to undeserving drivers, plaintiff's attorney fees, and
22 costs of the government to defend these suits. When in all



1 reasonableness, it is the driver who is negligent and who
2 utilizes a legal system that has all but eliminated personal
3 accountability for drivers. Lastly, it is this antiquated law
4 that has failed to provide guidance for the examiner of driver
5 licenses by omitting specific circumstances under which a
6 license may be suspended by the examiner's authority.

7 The purpose of this act is to impress upon all drivers of
8 the State that the ability to drive a motor vehicle is a
9 privilege and not a right and that reciprocal duties are owed on
10 behalf of the driver and the State. Drivers need to take
11 responsibility for the negligent and wanton actions they take,
12 and not look to the government as a coffer for their recovery.

13 SECTION 2. Chapter 286, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§286- Driver responsibility contract. (a) Each person
17 licensed by the State to operate a motor vehicle on state public
18 highways shall be bound by the Driver Responsibility Contract
19 set forth below on the later of the effective date of this
20 section or the date on which the person becomes so licensed.

21 THE HAWAII DRIVER RESPONSIBILITY CONTRACT



1 IN EXCHANGE FOR THE PRIVILEGE OF OPERATING A MOTOR VEHICLE
2 UPON STATE PUBLIC HIGHWAYS, YOU AGREE WITH THE STATE AS FOLLOWS:

3 1. You are presumed to know all traffic laws and rules,
4 including the Rules of the Road at Chapter 291C of the Hawaii
5 Revised Statutes, at all times while operating a motor vehicle in
6 the State. You will at all times operate a motor vehicle reasonably
7 and prudently for the conditions. You are presumed to know the
8 lawful speed limit on any highway.

9 2. You acknowledge that painted curb markings indicate
10 limitations and regulations placed upon parking immediately
11 adjacent to such markings. You are presumed to know the limitations
12 such markings indicate.

13 3. If any final judgment for property damage or personal
14 injury resulting from the negligent operation of any motor vehicle
15 is made against you, you will pay such judgment in full and
16 discharge your obligation as required by law or court order.

17 4. You will at all times maintain the appropriate financial
18 responsibility and insurance policies required by law for operation
19 of a motor vehicle on state highways.



1 5. You will not use any motor vehicle in the commission of
2 a crime. You hereby waive and release all rights you may have to
3 sue in tort for any death, personal injury or property damage
4 proximately resulting from your use of any motor vehicle in the
5 commission of a crime.

6 6. You will timely pay all fines and costs associated with
7 enforcement of the State's traffic laws within the time and the
8 manner provided by law.

9 7. You will stop and render aid or assistance to any other
10 driver or person when required to do so by law.

11 8. You will use a seatbelt as required by law, including
12 assuring that all passengers and children are in compliance with
13 seatbelt rules.

14 9. You will not unlawfully operate a motor vehicle under
15 the influence of drugs or alcohol. You acknowledge that operating a
16 motor vehicle after consuming drugs or alcohol, even in small
17 quantities, may inhibit your ability to operate a motor vehicle
18 competently. You hereby waive and release all rights you may have
19 to sue in tort for any death, personal injury or property damage
20 proximately resulting from your unlawful operation of a motor



1 vehicle while under the influence of drugs and alcohol. You will
2 be legally responsible for any personal injury or property damaged
3 caused by your operation of a motor vehicle while under the
4 influence of drugs or alcohol.

5 10. You will at all times operate a motor vehicle that has a
6 current safety inspection certification as required by law.

7 11. You acknowledge that your license to operate a motor
8 vehicle upon state highways is a privilege. You further acknowledge
9 that the State may suspend or revoke your license. Any breach of
10 this Contract may subject you to suspension of your license, in
11 accordance with section 286-119 of the Hawaii Revised Statutes,
12 when the examiner of drivers has reasonable cause to believe that,
13 by virtue of such breach, you are incompetent to operate the type
14 of motor vehicle for which you hold a license.

15 12. Breach of this Contract is not the only grounds on which
16 the examiner of drivers may suspend your license in accordance with
17 section 286-119, so long as he has reasonable cause to believe that
18 you are incompetent to operate a motor vehicle on other grounds.



1 13. If your license is suspended by the examiner of drivers
2 in accordance with paragraph 11 above, you are entitled to a
3 hearing as provided by law.

4 14. By (a) your acceptance and continuing use after July 1,
5 2009 of a license issued to you before July 1, 2009 or (b) your
6 acceptance of a license issued to you on or after July 1, 2009 to
7 operate a motor vehicle upon state roads, you accept the terms of
8 this Contract and knowingly, voluntarily, and intelligently agree
9 to its terms.

10 15. If any provision of this Contract, or the application
11 thereof to any person or circumstance is held invalid, the
12 invalidity does not affect other provisions or applications of the
13 Contract, which will be given effect without the invalid provision
14 or application, and to this end the provisions of this Contract are
15 severable.

16 (b) On the application form for a driver's license or
17 license renewal, the examiner of drivers shall include the text
18 of the Contract as set forth in subsection (a).

19 (c) Nothing in this section shall in any way affect the
20 application or enforcement of any other law or rule.



1 (d) This section may be cited or referred to as the
2 "Driver Responsibility Contract."

3 SECTION 3. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun, before its effective date.

6 SECTION 4. If any provision of this Act, or the
7 application thereof to any person or circumstance is held
8 invalid, the invalidity does not affect other provisions or
9 applications of the Act, which can be given effect without the
10 invalid provision or application, and to this end the provisions
11 of this Act are severable.

12 SECTION 5. New statutory material is underscored.

13 SECTION 6. This Act shall take effect on July 1, 2009

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INTRODUCED BY:

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Report Title:

Motor vehicle driver licensing; Driver Responsibility Contract

Description:

Establishes a Driver Responsibility Contract between the State and licensed drivers, serving as actual notice of the duties drivers owe to the State and other drivers in exchange for the privilege to operate a motor vehicle in the State.

