
A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE INSURANCE.

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

1 SECTION 1. The purpose of this Act is to establish a named
2 driver exclusion in the Hawaii motor vehicle insurance code.

3 SECTION 2. Chapter 431:10C, Hawaii Revised Statutes, is
4 amended by adding a new section to part III to be appropriately
5 designated and to read as follows:

6 "§431:10C- Exclusion of designated persons. (a) An
7 insurance policy covering a motor vehicle may exclude from
8 coverage any person specifically designated as excluded by the
9 named insured. Any exclusion shall be acknowledged between an
10 insurer, the named insured, and excluded person, by the
11 signatures of the named insured and excluded person on a written
12 endorsement. The endorsement shall be effective for each
13 renewal of the policy and shall remain in effect until the
14 insurer and named insured agree in writing to provide coverage
15 for the person who was excluded from coverage or the endorsement
16 is removed from the policy.

1 (b) The endorsement to exclude coverage under subsection
2 (a) shall be substantially similar to the following form:

3 **DRIVER EXCLUSION ENDORSEMENT**

4 Nothing herein contained shall alter, vary, waive, or
5 extend any of the terms, conditions, agreements, or limits
6 of the under-mentioned policy other than as stated herein
7 below. Effective (date) 12:01 a.m., Hawaii Standard Time.
8 Attached hereto and forming part of Policy No.
9 (number) issued to (name of insured) by (name of
10 insurance company). In consideration of the premium for
11 which the policy is written, it is agreed that the company
12 shall not be liable, and no liability or obligation of any
13 kind shall be attached to the company under (policy
14 number), for losses, injuries, or damages sustained after
15 the effective date of this endorsement while any motor
16 vehicle is operated or used by (insert name of excluded
17 driver(s)).

18 I (name of insured) understand and agree that (excluded
19 driver) is prohibited by law from operating the (year,
20 make, model, and VIN) insured under the attached policy. I
21 further agree that I shall not permit (excluded driver) to
22 operate the vehicle.

1 Date:

2 (signature of named insured)

3 I understand that I have been excluded from and am not
4 insured under the attached motor vehicle insurance policy
5 and agree that I will not operate the (year, make, model,
6 and VIN) insured under the policy. I further understand
7 that I am prohibited by law from operating the vehicle.

8 Date:

9 (signature of excluded driver)"

10 (c) In the event that a person operates a vehicle from
11 which the person is excluded from insurance coverage pursuant to
12 this section and causes accidental harm to another person, the
13 person sustaining accidental harm or that person's legal
14 representative shall be entitled to an assigned claim pursuant
15 to section 431:10C-408. The assigned claim shall be primary if
16 there are no liability or uninsured motorist insurance benefits
17 applicable to the person sustaining accidental harm; provided
18 however, that a person who rejected in writing the offer of
19 uninsured motorist coverage under a motor vehicle insurance
20 policy shall not be entitled to an assigned claim under this
21 section. The assigned claim shall be secondary and pay only
22 after all other liability or uninsured motorist insurance

1 benefits are exhausted if there are liability or uninsured
2 motorist insurance benefits applicable to the person sustaining
3 accidental harm.

4 (d) No person shall operate a motor vehicle that is
5 insured by a policy from which the person is excluded from
6 insurance coverage.

7 (e) No owner of a motor vehicle insured by a policy that
8 excludes a person from coverage shall permit the excluded person
9 to operate the insured motor vehicle."

10 SECTION 3. Section 431:10C-103, Hawaii Revised Statutes,
11 is amended by amending the definition of "insured" to read as
12 follows:

13 "Insured" means:

14 (1) The person identified by name as insured in a motor
15 vehicle insurance policy complying with section
16 431:10C-301; and

17 (2) A person residing in the same household with a named
18 insured, specifically:

19 (A) A spouse or reciprocal beneficiary or other
20 relative of a named insured; and

1 (B) A minor in the custody of a named insured or of a
2 relative residing in the same household with a
3 named insured.

4 A person resides in the same household if the person
5 usually makes the person's home in the same family unit, which
6 may include reciprocal beneficiaries, even though the person
7 temporarily lives elsewhere.

8 Notwithstanding paragraphs (2) (A) and (2) (B), "insured"
9 shall not include persons who are named and excluded under a
10 valid endorsement pursuant to section 431:10C- ."

11 SECTION 4. Section 431:10C-117, Hawaii Revised Statutes,
12 is amended by amending subsection (a) to read as follows:

13 "(a) (1) Any person subject to this article in the
14 capacity of the operator, owner, or registrant of a
15 motor vehicle operated in this State, or registered in
16 this State, who violates any applicable provision of
17 this article, shall be subject to citation for the
18 violation by any county police department in a form
19 and manner approved by the traffic violations bureau
20 of the district court of the first circuit;

21 (2) Notwithstanding any provision of the Hawaii Penal
22 Code:

1 (A) Each violation shall be deemed a separate offense
2 and shall be subject to a fine of not less than
3 \$100 nor more than \$5,000 which shall not be
4 suspended except as provided in subparagraph (B);
5 [~~and~~]

6 (B) If the person is convicted of not having had a
7 motor vehicle insurance policy in effect at the
8 time the citation was issued, the fine shall be
9 \$500 for the first offense and a minimum of
10 \$1,500 for each subsequent offense that occurs
11 within a five-year period from any prior offense;
12 provided that the judge:

13 (i) Shall have the discretion to suspend all or
14 any portion of the fine if the defendant
15 provides proof of having a current motor
16 vehicle insurance policy; provided further
17 that upon the defendant's request, the judge
18 may grant community service in lieu of the
19 fine, of not less than seventy-five hours
20 and not more than one hundred hours for the
21 first offense, and not less than two hundred

1 hours nor more than two hundred seventy-five
2 hours for the second offense; and

3 (ii) May grant community service in lieu of the
4 fine for subsequent offenses at the judge's
5 discretion;

6 (C) If the person is convicted of operating a motor
7 vehicle from which the person was excluded from
8 insurance coverage pursuant to section
9 431:10C- , the fine shall be \$3,000 for the
10 first offense and a minimum of \$1,500 for each
11 subsequent offense that occurs within a five-year
12 period from any prior offense; and

13 (D) If the person is convicted of being an owner who
14 has permitted an excluded person to operate a
15 motor vehicle in violation of section 431:10C- ,
16 the fine shall be \$3,000 for the first offense
17 and a minimum of \$1,500 for each subsequent
18 offense that occurs within a five-year period
19 from any prior offense;

20 (3) In addition to the fine in paragraph (2), the court
21 shall either:

- 1 (A) Suspend the driver's license of the driver or of
- 2 the registered owner for:
- 3 (i) Three months for the first conviction; and
- 4 (ii) One year for any subsequent offense within a
- 5 five-year period from a previous offense;
- 6 provided that the driver or the registered owner
- 7 shall not be required to obtain proof of
- 8 financial responsibility pursuant to section 287-
- 9 20; or
- 10 (B) Require the driver or the registered owner to
- 11 keep a nonrefundable motor vehicle insurance
- 12 policy in force for six months;
- 13 (4) Any person cited under this section shall have an
- 14 opportunity to present a good faith defense, including
- 15 but not limited to lack of knowledge or proof of
- 16 insurance. The general penalty provision of this
- 17 section shall not apply to:
- 18 (A) Any operator of a motor vehicle owned by another
- 19 person if the operator's own insurance covers
- 20 such driving;

1 (B) Any operator of a motor vehicle owned by that
2 person's employer during the normal scope of that
3 person's employment; or

4 (C) Any operator of a borrowed motor vehicle if the
5 operator holds a reasonable belief that the
6 subject vehicle is insured;

7 (5) In the case of multiple convictions for driving
8 without a valid motor vehicle insurance policy within
9 a five-year period from any prior offense, the court,
10 in addition to any other penalty, shall impose the
11 following penalties:

12 (A) Imprisonment of not more than thirty days;

13 (B) Suspension or revocation of the motor vehicle
14 registration plates of the vehicle involved;

15 (C) Impoundment, or impoundment and sale, of the
16 motor vehicle for the costs of storage and other
17 charges incident to seizure of the vehicle, or
18 any other cost involved pursuant to section
19 431:10C-301; or

20 (D) Any combination of those penalties; and

1 (6) Any violation as provided in subsection (a) (2) (B)
 2 shall not be deemed to be a traffic infraction as
 3 defined by chapter 291D."

4 SECTION 5. Section 431:10C-408, Hawaii Revised Statutes,
 5 is amended by amending subsection (a) to read as follows:

6 "(a) Each person sustaining accidental harm, or such
 7 person's legal representative, may, except as provided in
 8 subsection (b), obtain the motor vehicle insurance benefits
 9 through the plan whenever:

10 (1) No liability or uninsured motorist insurance benefits
 11 under motor vehicle insurance policies are applicable
 12 to the accidental harm;

13 (2) No such insurance benefits applicable to the
 14 accidental harm can be identified; [~~or~~]

15 (3) The only identifiable insurance benefits under motor
 16 vehicle insurance policies applicable to the
 17 accidental harm will not be paid in full because of
 18 financial inability of one or more self-insurers or
 19 insurers to fulfill their obligations[~~or~~]; or

20 (4) Notwithstanding the foregoing, a named insured that
 21 has rejected in writing the offer of uninsured
 22 motorist coverage under a motor vehicle insurance

1 policy shall not be entitled to an assigned claim
2 under this section."

3 SECTION 6. 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 7. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 8. This Act shall take effect on July 1, 2050 and
9 shall be repealed on .

Report Title:

Motor Vehicle Insurance

Description:

Creates a driver exclusion endorsement to enable a named insured to exclude specified persons from being covered under a policy.

Effective July 1, 2050. (SD2)