
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 operator exclusion in the Hawaii motor vehicle insurance law.

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 operators. (a) An
7 insurer shall have the right to exclude, cancel, or refuse to
8 renew coverage under a motor vehicle insurance policy as to
9 designated operators. Any such exclusion endorsement shall be
10 acknowledged by the signature of all named insureds. Any
11 acknowledgment by signature of the excluded operator shall
12 constitute prima facie proof that the operator knew that the
13 operator was excluded from coverage under the motor vehicle
14 insurance policy.

15 (b) In the event that a person operates a vehicle from
16 which the person is excluded from insurance coverage pursuant to
17 this section, does not otherwise have applicable motor vehicle
18 insurance coverage, and causes property damage or accidental



1 harm to another person, the excluded operator shall be deemed
2 uninsured for purposes of this article.

3 (c) No motor vehicle policy premium shall be increased in
4 any manner, whether by surcharge, loss of discount, or any other
5 underwriting factor, related to any claim by a person who
6 sustains property damage or accidental harm resulting from a
7 motor vehicle accident caused by an excluded operator; provided
8 that this subsection shall not apply to any policy that provides
9 coverage to an excluded operator, or to any policy that provides
10 liability coverage to other persons or entities as a result of a
11 claim involving the operation of any motor vehicle by the
12 excluded operator.

13 (d) No person shall operate a motor vehicle that is
14 insured by a policy from which the person is excluded from
15 insurance coverage, unless the excluded person is otherwise
16 covered by an applicable motor vehicle insurance policy.

17 (e) No owner of a motor vehicle insured by a policy that
18 excludes a person from coverage shall permit the excluded person
19 to operate the insured motor vehicle, unless the excluded person
20 is otherwise covered by an applicable motor vehicle insurance
21 policy."



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

4 "Insured" means:

5 (1) The person identified by name as insured in a motor
6 vehicle insurance policy complying with section
7 431:10C-301; and

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

10 (A) A spouse or reciprocal beneficiary or other
11 relative of a named insured; and

12 (B) A minor in the custody of a named insured or of a
13 relative residing in the same household with a
14 named insured.

15 A person resides in the same household if the person
16 usually makes the person's home in the same family unit, which
17 may include reciprocal beneficiaries, even though the person
18 temporarily lives elsewhere.

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



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

3 "(a) (1) Any person subject to this article in the
4 capacity of the operator, owner, or registrant of a
5 motor vehicle operated in this State, or registered in
6 this State, who violates any applicable provision of
7 this article, shall be subject to citation for the
8 violation by any county police department in a form
9 and manner approved by the traffic violations bureau
10 of the district court of the first circuit;

11 (2) Notwithstanding any provision of the Hawaii Penal
12 Code:

13 (A) Each violation shall be deemed a separate offense
14 and shall be subject to a fine of not less than
15 \$100 nor more than \$5,000 which shall not be
16 suspended except as provided in subparagraph (B);
17 [~~and~~]

18 (B) If the person is convicted of not having had a
19 motor vehicle insurance policy in effect at the
20 time the citation was issued, the fine shall be
21 \$500 for the first offense and a minimum of
22 \$1,500 for each subsequent offense that occurs



1 within a five-year period from any prior offense;
2 provided that the judge:

3 (i) Shall have the discretion to suspend all or
4 any portion of the fine if the defendant
5 provides proof of having a current motor
6 vehicle insurance policy; provided further
7 that upon the defendant's request, the judge
8 may grant community service in lieu of the
9 fine, of not less than seventy-five hours
10 and not more than one hundred hours for the
11 first offense, and not less than two hundred
12 hours nor more than two hundred seventy-five
13 hours for the second offense; and

14 (ii) May grant community service in lieu of the
15 fine for subsequent offenses at the judge's
16 discretion;

17 (C) If the person is convicted of operating a motor
18 vehicle from which the person was excluded from
19 insurance coverage pursuant to section
20 431:10C- , the fine shall be a minimum of \$500
21 and up to \$3,000 for the first offense and a
22 minimum of \$1,500 for each subsequent offense



1 that occurs within a five-year period from any
2 prior offense; and

3 (D) If the person is convicted of being an owner who
4 has permitted an excluded person to operate a
5 motor vehicle in violation of section 431:10C- ,
6 the fine shall be a minimum of than \$500 and up
7 to \$3,000 for the first offense and a minimum of
8 \$1,500 for each subsequent offense that occurs
9 within a five-year period from any prior offense;

10 (3) [~~In~~] With the exception of a conviction under
11 paragraph (2) (D) of this section, the court in
12 addition to imposing the fine provided in paragraph
13 (2), [~~the court~~] shall either:

14 (A) Suspend the driver's license of the driver or of
15 the registered owner for:

16 (i) Three months for the first conviction; and
17 (ii) One year for any subsequent offense within a

18 five-year period from a previous offense;
19 provided that the driver or the registered owner
20 shall not be required to obtain proof of
21 financial responsibility pursuant to section
22 287-20; or



- 1 (B) Require the driver or the registered owner to
2 keep a nonrefundable motor vehicle insurance
3 policy in force for six months;
- 4 (4) Any person cited under this section shall have an
5 opportunity to present a good faith defense, including
6 but not limited to lack of knowledge or proof of
7 insurance. The general penalty provision of this
8 section shall not apply to:
- 9 (A) Any operator of a motor vehicle owned by another
10 person if the operator's own insurance covers
11 such driving;
- 12 (B) Any operator of a motor vehicle owned by that
13 person's employer during the normal scope of that
14 person's employment; or
- 15 (C) Any operator of a borrowed motor vehicle if the
16 operator holds a reasonable belief that the
17 subject vehicle is insured;
- 18 (5) In the case of multiple convictions for driving
19 without a valid motor vehicle insurance policy within
20 a five-year period from any prior offense, the court,
21 in addition to any other penalty, shall impose the
22 following penalties:



- 1 (A) Imprisonment of not more than thirty days;
- 2 (B) Suspension or revocation of the motor vehicle
- 3 registration plates of the vehicle involved;
- 4 (C) Impoundment, or impoundment and sale, of the
- 5 motor vehicle for the costs of storage and other
- 6 charges incident to seizure of the vehicle, or
- 7 any other cost involved pursuant to section
- 8 431:10C-301; or

- 9 (D) Any combination of those penalties; and
- 10 (6) Any violation as provided in subsection (a) (2) (B)
- 11 shall not be deemed to be a traffic infraction as
- 12 defined by chapter 291D."

13 SECTION 5. Section 431:10C-408, Hawaii Revised Statutes,
 14 is amended by amending subsections (a) and (b) to read as
 15 follows:

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

- 20 (1) No liability or uninsured motorist insurance benefits
- 21 under motor vehicle insurance policies are applicable
- 22 to the accidental harm;



- 1 (2) No such insurance benefits applicable to the
- 2 accidental harm can be identified; or
- 3 (3) The only identifiable insurance benefits under motor
- 4 vehicle insurance policies applicable to the
- 5 accidental harm will not be paid in full because of
- 6 financial inability of one or more self-insurers or
- 7 insurers to fulfill their obligations.

8 Notwithstanding paragraphs (1) to (3), a named insured that
 9 has rejected in writing the offer of uninsured motorist coverage
 10 under a motor vehicle insurance policy shall not be entitled to
 11 the rights of claim and action against the insurer assigned
 12 under section 431:10C-403 with reference to the mandatory bodily
 13 injury liability policy for accidental harm.

14 (b) A person, or [~~such~~] the person's legal representative,
 15 shall be disqualified from receiving benefits through the plan
 16 if:

17 (1) [~~Such~~] The person is disqualified for criminal conduct
 18 under section 431:10C-305(d) from receiving the motor
 19 vehicle insurance benefits; or

20 (2) [~~Such~~] The person was:

21 (A) The owner or registrant of the motor vehicle at
 22 the time of the motor vehicle's involvement in



1 the accident out of which [~~such~~] the person's
2 accidental harm arose;

3 (B) The operator or any passenger of such a vehicle
4 at such time with reason to believe that such
5 vehicle was an uninsured motor vehicle[-]; or
6 (C) The operator of a motor vehicle from which the
7 person was excluded from insurance coverage under
8 section 431:10C- at the time of the motor
9 vehicle's involvement in the accident out of
10 which such excluded operator's harm arose."

11 SECTION 6. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun before its effective date.

14 SECTION 7. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 8. This Act shall take effect on July 1, 2020.



Report Title:

Motor Vehicle Insurance

Description:

Creates a driver exclusion endorsement to enable a named insured to exclude specified persons from coverage under a motor vehicle insurance policy. Effective July 1, 2020. (HB1878 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

