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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. 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 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 exclusion shall be acknowledged by  
10 the signature of all named insureds. Any acknowledgment by the  
11 signature of an excluded operator shall constitute prima facie  
12 proof that the driver knew that the driver was excluded from  
13 coverage under the motor vehicle insurance policy.

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



1 harm to another person, that 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 does  
9 provide coverage to an excluded operator, or to any policy that  
10 does provide liability coverage to other persons or entities as  
11 a result of a claim involving the operation of any motor vehicle  
12 by the 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 operator 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  
20 operator is otherwise covered by an applicable motor vehicle  
21 insurance 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 paragraph (2) (A) and (B) of the definition  
20 of "insured", "insured" shall not include persons who are named  
21 and excluded under a valid endorsement pursuant to section  
22 431:10C- ."



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 not less than \$500  
21 nor more than \$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 not less than \$500 nor more  
7           than \$3,000 for the first offense and a minimum  
8           of \$1,500 for each subsequent offense that occurs  
9           within a five-year period from any prior offense;

10           (3) In addition to the fine in paragraph [~~2~~7] (2) (A),  
11           (B), or (C) the court shall either:

12           (A) Suspend the driver's license of the driver or of  
13           the registered owner for:

14           (i) Three months for the first conviction; and

15           (ii) One year for any subsequent offense within a  
16           five-year period from a previous offense;

17           provided that the driver or the registered owner

18           shall not be required to obtain proof of

19           financial responsibility pursuant to section

20           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 the foregoing, a named insured that has  
9 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  
13 bodily injury liability policy for accidental harm.

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

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

19 (2) Such person was:

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



1           the accident out of which such 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 accidental harm  
11          arose."

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

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

17           SECTION 8. This Act shall take effect on July 1, 2050.

**Report Title:**

Motor Vehicle Insurance

**Description:**

Authorizes a driver exclusion to enable a named insured to exclude specified persons from being covered under a motor vehicle insurance policy. Provides that a named insured that has rejected in writing the offer of uninsured motorist coverage under a motor vehicle insurance policy shall not be entitled to the rights of claim and action against the assigned insurer, with reference to the mandatory bodily injury liability policy for accidental harm. Disqualifies the coverage to an excluded operator of a motor vehicle for an accident out of which the excluded operator's accidental harm arose. Effective 7/1/2050. (SD1)

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

