

JAN 20 2012

A BILL FOR AN ACT

RELATING TO MOTOR VEHICLES.

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

1 SECTION 1. Section 286-25, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§286-25 Operation of a vehicle without a certificate of**
4 **inspection.** (a) Whoever operates, permits the operation of,
5 causes to be operated, or parks any vehicle on a public highway
6 without a current official certificate of inspection, issued
7 under section 286-26, shall be fined not more than \$100[-], and
8 the vehicle may be seized pursuant to subsection (b).

9 (b) If a person has been fined pursuant to subsection (a)
10 three or more times for the same vehicle without obtaining a
11 current official certificate of inspection, the vehicle may be
12 seized no earlier than the twentieth day after the first fine,
13 by the director of finance or by any police officer, and held
14 for a period of ten days, during which time the vehicle shall be
15 subject to redemption by its owner, by proving that a current
16 official certificate of inspection has been obtained and by
17 paying the applicable fines, cost of storage, and other charges
18 incident to the seizure of the vehicle. The director of



1 finance, chief of police, or any police officer shall be deemed
2 to have seized and taken possession of a vehicle, after having
3 securely sealed it where located and posted a notice upon the
4 vehicle, setting forth the fact that it has been seized for not
5 having a current official certificate of inspection, as required
6 under subsection (a), and warning all other persons from
7 tampering with the vehicle. Any person who tampers with or
8 disturbs any vehicle that has been seized pursuant to this
9 section shall be fined not more than \$500.

10 (c) All vehicles seized and sealed shall remain at the
11 place of seizure or at any other place that the director of
12 finance may direct, at the expense and risk of the owner. If
13 the owner of the vehicle fails to redeem it within ten days
14 after seizure, the vehicle may be sold by the director of
15 finance at public auction to the highest bidder for cash, after
16 giving ten days public notice in the county where the vehicle
17 was seized and by posting notices in at least three public
18 places in the district where the vehicle was seized; provided
19 that the requirements of public auction may be waived when the
20 appraised value of any vehicle is less than \$250, as determined
21 by the director of finance or an authorized representative, in
22 which case the vehicle may be disposed of in the same manner as



1 when a motor vehicle is put up for public auction and no bid is
2 received. The amount realized at the sale, less the amount of
3 the applicable fines, together with all costs incurred in giving
4 public notice, storing, and selling the vehicle, and all other
5 charges incident to the seizure and sale, shall be paid to the
6 owner of the vehicle. If no claim for the surplus is filed with
7 the director of finance within sixty days from the date of the
8 sale, the surplus shall be paid into the county treasury as a
9 government realization and all claim to that sum shall
10 thereafter be forever barred.

11 (d) Any vehicle impounded pursuant to this section shall
12 be released forthwith to the registered owner, without payment
13 of the applicable fines, cost of storage, and other charges
14 incident to the seizure of the vehicle, if the interests of
15 justice so require."

16 SECTION 2. Section 286-102, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§286-102 Licensing.** (a) No person, except one exempted
19 under section 286-105, one who holds an instruction permit under
20 section 286-110, one who holds a provisional license under
21 section 286-102.6, one who holds a commercial driver's license
22 issued under section 286-239, or one who holds a commercial



1 driver's license instruction permit issued under section
2 286-236, shall operate any category of motor vehicles listed in
3 this section without first being appropriately examined and duly
4 licensed as a qualified driver of that category of motor
5 vehicles.

6 (b) A person operating the following category or
7 combination of categories of motor vehicles shall be examined as
8 provided in section 286-108 and duly licensed by the examiner of
9 drivers:

- 10 (1) Mopeds;
- 11 (2) Motorcycles and motor scooters;
- 12 (3) Passenger cars of any gross vehicle weight rating,
13 buses designed to transport fifteen or fewer
14 occupants, and trucks and vans having a gross vehicle
15 weight rating of fifteen thousand pounds or less; and
- 16 (4) All of the motor vehicles in category (3) and any
17 vehicle that is not a commercial motor vehicle.

18 A school bus or van operator shall be properly licensed to
19 operate the category of vehicles that the operator operates as a
20 school bus or van and shall comply with the standards of the
21 department of transportation as provided by rules adopted
22 pursuant to section 286-181.



1 (c) No person shall receive a driver's license without
2 surrendering to the examiner of drivers all valid driver's
3 licenses in the person's possession. All licenses so
4 surrendered shall be returned to the issuing authority, together
5 with information that the person is licensed in this State;
6 provided that with the exception of driver's licenses issued by
7 any Canadian province, a foreign driver's license may be
8 returned to the owner after being invalidated pursuant to
9 issuance of a Hawaii license; and provided further that the
10 examiner of drivers shall notify the authority that issued the
11 foreign license that the license has been invalidated and
12 returned because the owner is now licensed in this State. No
13 person shall be permitted to hold more than one valid driver's
14 license at any time.

15 (d) Before issuing a driver's license, the examiner of
16 drivers shall complete a check of the applicant's driving record
17 to determine whether the applicant is subject to any
18 disqualification under section 286-240, or any license
19 suspension, revocation, or cancellation under state law, and
20 whether the applicant has a driver's license from more than one
21 state or jurisdiction. The record check shall include but is
22 not limited to the following:



- 1 (1) A check of the applicant's driving record as
- 2 maintained by the applicant's state of licensure;
- 3 (2) A check with the commercial driver license information
- 4 system;
- 5 (3) A check with the National Driver Register; and
- 6 (4) If the driver is renewing a commercial driver's
- 7 license for the first time after September 30, 2002, a
- 8 request for the applicant's complete driving record
- 9 from all states where the applicant was previously
- 10 licensed to drive any motor vehicle over the last ten
- 11 years; provided that a notation is made on the driving
- 12 record confirming the check has been made and the date
- 13 it was done.

14 (e) In addition to other qualifications and conditions by
15 or pursuant to this part, the right of an individual to hold a
16 motor vehicle operator's license or permit issued by the county
17 is subject to the requirements of section 576D-13.

18 Upon receipt of certification from the child support
19 enforcement agency pursuant to section 576D-13 that an obligor
20 or individual who owns or operates a motor vehicle is not in
21 compliance with an order of support as defined in section 576D-1
22 or has failed to comply with a subpoena or warrant relating to a



1 paternity or child support proceeding, the examiner of drivers
2 shall suspend the license and right to operate motor vehicles
3 and confiscate the license of the obligor. The examiner of
4 drivers shall not reinstate an obligor's or individual's license
5 until the child support enforcement agency, the office of child
6 support hearings, or the family court issues an authorization
7 that states the obligor or individual is in compliance with an
8 order of support or has complied with a subpoena or warrant
9 relating to a paternity or child support hearing.

10 (f) If a person fails to comply with subsection (a), the
11 motor vehicle may be seized by the director of finance or by any
12 police officer and held for a period of ten days, during which
13 time the vehicle shall be subject to redemption by its owner, by
14 paying the applicable cost of storage and other charges incident
15 to the seizure of the vehicle and, if the owner was the driver
16 of the motor vehicle at the time of seizure, by also proving
17 that a valid license to operate the motor vehicle has been
18 obtained. The director of finance, chief of police, or any
19 police officer shall be deemed to have seized and taken
20 possession of any motor vehicle, after having securely sealed it
21 where located and posted a notice upon the motor vehicle,
22 setting forth the fact that it has been seized for operation by



1 a driver not duly licensed, as required under subsection (a),
2 and warning all other persons from tampering with the vehicle.
3 Any person who tampers with or disturbs any vehicle that has
4 been seized pursuant to this section shall be fined not more
5 than \$500.

6 (g) All vehicles seized and sealed shall remain at the
7 place of seizure or at any other place that the director of
8 finance may direct, at the expense and risk of the owner. If
9 the owner of the vehicle fails to redeem it within ten days
10 after seizure, the vehicle may be sold by the director of
11 finance at public auction to the highest bidder for cash, after
12 giving ten days public notice in the county where the motor
13 vehicle was seized and by posting notices in at least three
14 public places in the district where the motor vehicle was
15 seized; provided that the requirements of public auction may be
16 waived when the appraised value of any vehicle is less than
17 \$250, as determined by the director of finance or an authorized
18 representative, in which case the motor vehicle may be disposed
19 of in the same manner as when a motor vehicle is put up for
20 public auction and no bid is received. The amount realized at
21 the sale, less the costs incurred in giving public notice,
22 storing, and selling the motor vehicle, and all other charges



1 incident to the seizure and sale, shall be paid to the owner of
2 the motor vehicle. If no claim for the surplus is filed with
3 the director of finance within sixty days from the date of the
4 sale, the surplus shall be paid into the county treasury as a
5 government realization and all claim to that sum shall
6 thereafter be forever barred.

7 (h) Any vehicle impounded pursuant to this section shall
8 be released forthwith to the registered owner, without payment
9 of the applicable cost of storage and other charges incident to
10 the seizure of the motor vehicle, if the interests of justice so
11 require.

12 (i) The licensing authority may adopt rules pursuant to
13 chapter 91 to implement and enforce the requirements of this
14 section."

15 SECTION 3. Section 286-116, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§286-116 License, insurance identification card,**
18 **possession, exhibition.** (a) Every licensee shall have a valid
19 driver's license in the licensee's immediate possession at all
20 times, and a valid motor vehicle or liability insurance
21 identification card applicable to the motor vehicle operated as
22 required under [~~section~~] sections 431:10C-107 and [~~section~~]



1 431:10G-106, when operating a motor vehicle, and shall display
2 the same upon demand of a police officer. Every police officer
3 or law enforcement officer when stopping a vehicle or inspecting
4 a vehicle for any reason shall demand that the driver or owner
5 display the driver's or owner's driver's license and insurance
6 identification card. No person charged with violating this
7 section shall be convicted if the person produces in court, or
8 proves from the proper official or other records that the person
9 was the holder of a driver's license or a motor vehicle or
10 liability insurance identification card and policy conforming to
11 [~~article~~] articles 10C and [~~article~~] 10G of chapter 431 or a
12 certificate of self-insurance issued by the insurance
13 commissioner pursuant to [~~section~~] sections 431:10C-107 and
14 [~~section~~] 431:10G-103, theretofore issued to the person and
15 valid at the time of the person's arrest.

16 (b) At any time a law enforcement officer finds a motor
17 vehicle in operation by a driver not in possession of the motor
18 vehicle or liability insurance identification card required
19 under [~~section~~] sections 431:10C-107 and [~~section~~] 431:10G-106,
20 the officer shall issue a citation with the earliest possible
21 date for court appearance in every instance.



1 (c) In all instances in which a citation shall be issued
2 under subsection (b), whenever the driver cited is not found to
3 be the registered owner of the motor vehicle under operation,
4 the citation shall also be issued to the driver as the owner's
5 agent and to the registered owner of the motor vehicle.
6 Whenever the registered owner of any motor vehicle permits any
7 person to operate the registered owner's motor vehicle, the
8 registered owner appoints, designates, and constitutes the
9 driver the registered owner's agent for all purposes under this
10 section and ~~[section]~~ sections 805-13, 431:10C-107, [section]
11 and 431:10G-106~~[, and section 805-13]~~.

12 (d) The operation of any motor vehicle required to be
13 licensed on a highway by a driver, whether or not licensed, who
14 knows, or has reason to believe, that the motor vehicle is not
15 insured in compliance with ~~[article]~~ articles 10C and ~~[article]~~
16 10G of chapter 431, shall constitute a violation of this
17 chapter.

18 (e) Any registered owner of any motor vehicle required to
19 be licensed, who directly or indirectly permits the operation of
20 ~~[such]~~ the motor vehicle on any highway at any time the motor
21 vehicle is not insured in compliance with ~~[article]~~ articles 10C
22 and [article] 10G of chapter 431, shall be guilty of a violation



1 of this chapter. The registered owner shall, in all cases, be
2 presumed to know whether a motor vehicle is insured in
3 compliance with [~~article~~] articles 10C and [~~article~~] 10G of
4 chapter 431.

5 (f) Notwithstanding any other law to the contrary, if a
6 person fails to display a valid insurance identification card as
7 required under subsection (a), the motor vehicle may be seized
8 by the director of finance or by any police officer, and held
9 for a period of ten days, during which time the motor vehicle
10 shall be subject to redemption by its owner, by paying the
11 applicable cost of storage and other charges incident to the
12 seizure of the motor vehicle and by also showing a valid
13 insurance identification card, as required under subsection (a).
14 The director of finance, chief of police, or any police officer
15 shall be deemed to have seized and taken possession of any motor
16 vehicle, after having securely sealed it where located and
17 posted a notice upon the motor vehicle, setting forth the fact
18 that it has been seized for failure to display a valid insurance
19 identification card, as required under subsection (a), and
20 warning all other persons from tampering with the vehicle. Any
21 person who tampers with or disturbs any motor vehicle that has



1 been seized pursuant to this section shall be fined not more
2 than \$500.

3 (g) All vehicles seized and sealed shall remain at the
4 place of seizure or at any other place that the director of
5 finance may direct, at the expense and risk of the owner. If
6 the owner of the motor vehicle fails to redeem it within ten
7 days after seizure, the motor vehicle may be sold by the
8 director of finance at public auction to the highest bidder for
9 cash, after giving ten days public notice in the county where
10 the motor vehicle was seized and by posting notices in at least
11 three public places in the district where the vehicle was
12 seized; provided that the requirements of public auction may be
13 waived when the appraised value of any motor vehicle is less
14 than \$250, as determined by the director of finance or an
15 authorized representative, in which case the vehicle may be
16 disposed of in the same manner as when a motor vehicle is put up
17 for public auction and no bid is received. The amount realized
18 at the sale, less the costs incurred in giving public notice,
19 storing, and selling the vehicle, and all other charges incident
20 to the seizure and sale, shall be paid to the owner of the motor
21 vehicle. If no claim for the surplus is filed with the director
22 of finance within sixty days from the date of the sale, the



1 surplus shall be paid into the county treasury as a government
2 realization and all claim to that sum shall thereafter be
3 forever barred.

4 (h) Any vehicle impounded pursuant to this section shall
5 be released forthwith to the registered owner, without payment
6 of the applicable cost of storage and other charges incident to
7 the seizure of the vehicle, if the interests of justice so
8 require."

9 SECTION 4. Section 431:10C-104, Hawaii Revised Statutes,
10 is amended to read as follows:

11 **"§431:10C-104 Conditions of operation and registration of**
12 **motor vehicles.** (a) Except as provided in section 431:10C-105,
13 no person shall operate or use a motor vehicle upon any public
14 street, road, or highway of this State at any time unless such
15 motor vehicle is insured at all times under a motor vehicle
16 insurance policy.

17 (b) Every owner of a motor vehicle used or operated at any
18 time upon any public street, road, or highway of this State
19 shall obtain a motor vehicle insurance policy upon such vehicle
20 which provides the coverage required by this article and shall
21 maintain the motor vehicle insurance policy at all times for the
22 entire motor vehicle registration period.



1 (c) Any person who violates the provisions of this section
2 shall be subject to the provisions of section 431:10C-117(a).

3 (d) The provisions of this article shall not apply to any
4 vehicle owned by or registered in the name of any agency of the
5 federal government, or to any antique motor vehicle as defined
6 in section 249-1.

7 (e) Notwithstanding any other law to the contrary, if a
8 person fails to comply with subsection (a), the motor vehicle
9 may be seized by the director of finance or by any police
10 officer and held for a period of ten days, during which time the
11 motor vehicle shall be subject to redemption by its owner, by
12 paying the applicable cost of storage and other charges incident
13 to the seizure of the vehicle and by also proving that a valid
14 motor vehicle insurance policy has been obtained. The director
15 of finance, chief of police, or any police officer shall be
16 deemed to have seized and taken possession of any vehicle, after
17 having securely sealed it where located and posted a notice upon
18 the motor vehicle, setting forth the fact that it has been
19 seized for failure to have a valid motor vehicle insurance
20 policy, as required under subsection (a), and warning all other
21 persons from tampering with the vehicle. Any person who tampers



1 with or disturbs any vehicle that has been seized pursuant to
2 this section shall be fined not more than \$500.

3 (f) All vehicles seized and sealed shall remain at the
4 place of seizure or at any other place that the director of
5 finance may direct, at the expense and risk of the owner. If
6 the owner of the motor vehicle fails to redeem it within ten
7 days after seizure, the motor vehicle may be sold by the
8 director of finance at public auction to the highest bidder for
9 cash, after giving ten days public notice in the county where
10 the motor vehicle was seized and by posting notices in at least
11 three public places in the district where the motor vehicle was
12 seized; provided that the requirements of public auction may be
13 waived when the appraised value of any vehicle is less than
14 \$250, as determined by the director of finance or an authorized
15 representative, in which case the vehicle may be disposed of in
16 the same manner as when a motor vehicle is put up for public
17 auction and no bid is received. The amount realized at the
18 sale, less the costs incurred in giving public notice, storing,
19 and selling the motor vehicle, and all other charges incident to
20 the seizure and sale, shall be paid to the owner of the motor
21 vehicle. If no claim for the surplus is filed with the director
22 of finance within sixty days from the date of the sale, the



1 surplus shall be paid into the county treasury as a government
2 realization and all claim to that sum shall thereafter be
3 forever barred.

4 (g) Any motor vehicle impounded pursuant to this section
5 shall be released forthwith to the registered owner, without
6 payment of the applicable cost of storage and other charges
7 incident to the seizure of the vehicle, if the interests of
8 justice so require."

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

12 SECTION 6. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect on July 1, 2013.

15

INTRODUCED BY:

Chick Gattuso



S.B. NO. 2293

Report Title:

Motor Vehicle; Impound; Seizure; Insurance; Safety Check;
License

Description:

Authorizes and sets forth procedures for impounding a motor vehicle after a person has been fined three or more times for operating a vehicle without a valid certificate of inspection, or for operating a vehicle without being duly licensed, without a valid insurance card, or without a valid insurance policy.

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

