

JAN 28 2015

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# 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



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

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



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

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

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

20 **"§286-102 Licensing.** (a) No person, except one exempted  
21 under section 286-105, one who holds an instruction permit under



1 section 286-110, one who holds a provisional license under  
2 section 286-102.6, one who holds a commercial driver's license  
3 issued under section 286-239, or one who holds a commercial  
4 driver's license instruction permit issued under section  
5 286-236, shall operate any category of motor vehicles listed in  
6 this section without first being appropriately examined and duly  
7 licensed as a qualified driver of that category of motor  
8 vehicles.

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

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



1 A school bus or van operator shall be properly licensed to  
2 operate the category of vehicles that the operator operates as a  
3 school bus or van and shall comply with the standards of the  
4 department of transportation as provided by rules adopted  
5 pursuant to section 286-181.

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



1 (d) Before issuing a driver's license, the examiner of  
2 drivers shall complete a check of the applicant's driving record  
3 to determine whether the applicant is subject to any  
4 disqualification under section 286-240, or any license  
5 suspension, revocation, or cancellation under state law, and  
6 whether the applicant has a driver's license from more than one  
7 state or jurisdiction. The record check shall include but is  
8 not limited to the following:

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



1           (e) Notwithstanding sections 291E-61.6 and  
2   [+]291E-44.5[+], in addition to other qualifications and  
3   conditions by or pursuant to this part, the right of an  
4   individual to hold a motor vehicle operator's license or permit  
5   issued by the county is subject to the requirements of section  
6   576D-13.

7           Upon receipt of certification from the child support  
8   enforcement agency pursuant to section 576D-13 that an obligor  
9   or individual who owns or operates a motor vehicle is not in  
10   compliance with an order of support as defined in section 576D-1  
11   or has failed to comply with a subpoena or warrant relating to a  
12   paternity or child support proceeding, the examiner of drivers  
13   shall suspend the license and right to operate motor vehicles  
14   and confiscate the license of the obligor. The examiner of  
15   drivers shall not reinstate an obligor's or individual's license  
16   until the child support enforcement agency, the office of child  
17   support hearings, or the family court issues an authorization  
18   that states the obligor or individual is in compliance with an  
19   order of support or has complied with a subpoena or warrant  
20   relating to a paternity or child support hearing.



1        (f) If a person fails to comply with subsection (a), the  
2 motor vehicle may be seized by the director of finance or by any  
3 police officer and held for a period of ten days, during which  
4 time the vehicle shall be subject to redemption by its owner, by  
5 paying the applicable cost of storage and other charges incident  
6 to the seizure of the vehicle and, if the owner was the driver  
7 of the motor vehicle at the time of seizure, by also proving  
8 that a valid license to operate the motor vehicle has been  
9 obtained. The director of finance, chief of police, or any  
10 police officer shall be deemed to have seized and taken  
11 possession of any motor vehicle, after having securely sealed it  
12 where located and posted a notice upon the motor vehicle,  
13 setting forth the fact that it has been seized for operation by  
14 a driver not duly licensed, as required under subsection (a),  
15 and warning all other persons from tampering with the vehicle.  
16 Any person who tampers with or disturbs any vehicle that has  
17 been seized pursuant to this section shall be fined not more  
18 than \$500.

19        (g) All vehicles seized and sealed shall remain at the  
20 place of seizure or at any other place that the director of  
21 finance may direct, at the expense and risk of the owner. If





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



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

6        (i) The licensing authority may adopt rules pursuant to  
7 chapter 91 to implement and enforce the requirements of this  
8 section."

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

11        **"§286-116 License, insurance identification card,**  
12 **possession, exhibition.** (a) Every licensee shall have a valid  
13 driver's license in the licensee's immediate possession at all  
14 times, and a valid motor vehicle or liability insurance  
15 identification card applicable to the motor vehicle operated as  
16 required under [~~section~~] sections 431:10C-107 and [~~section~~]  
17 431:10G-106, when operating a motor vehicle, and shall display  
18 the same upon demand of a police officer. Every police officer  
19 or law enforcement officer when stopping a vehicle or inspecting  
20 a vehicle for any reason shall demand that the driver or owner  
21 display the driver's or owner's driver's license and insurance



1 identification card. No person charged with violating this  
2 section shall be convicted if the person produces in court, or  
3 proves from the proper official or other records that the person  
4 was the holder of a driver's license or a motor vehicle or  
5 liability insurance identification card and policy conforming to  
6 ~~[article]~~ articles 10C and ~~[article]~~ 10G of chapter 431 or a  
7 certificate of self-insurance issued by the insurance  
8 commissioner pursuant to ~~[section]~~ sections 431:10C-107 and  
9 ~~[section]~~ 431:10G-103, theretofore issued to the person and  
10 valid at the time of the person's arrest.

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

17 (c) In all instances in which a citation shall be issued  
18 under subsection (b), whenever the driver cited is not found to  
19 be the registered owner of the motor vehicle under operation,  
20 the citation shall also be issued to the driver as the owner's  
21 agent and to the registered owner of the motor vehicle.



1 Whenever the registered owner of any motor vehicle permits any  
2 person to operate the registered owner's motor vehicle, the  
3 registered owner appoints, designates, and constitutes the  
4 driver the registered owner's agent for all purposes under this  
5 section and ~~[section]~~ sections 805-13, 431:10C-107, [section]  
6 and 431:10G-106 [~~and section 805-13~~].

7 (d) The operation of any motor vehicle required to be  
8 licensed on a highway by a driver, whether or not licensed, who  
9 knows, or has reason to believe, that the motor vehicle is not  
10 insured in compliance with ~~[article]~~ articles 10C and [article]  
11 10G of chapter 431, shall constitute a violation of this  
12 chapter.

13 (e) Any registered owner of any motor vehicle required to  
14 be licensed, who directly or indirectly permits the operation of  
15 ~~[such]~~ the motor vehicle on any highway at any time the motor  
16 vehicle is not insured in compliance with ~~[article]~~ articles 10C  
17 and [article] 10G of chapter 431, shall be guilty of a violation  
18 of this chapter. The registered owner shall, in all cases, be  
19 presumed to know whether a motor vehicle is insured in  
20 compliance with ~~[article]~~ articles 10C and [article] 10G of  
21 chapter 431.



1        (f) Notwithstanding any other law to the contrary, if a  
2 person fails to display a valid insurance identification card as  
3 required under subsection (a), the motor vehicle may be seized  
4 by the director of finance or by any police officer, and held  
5 for a period of ten days, during which time the motor vehicle  
6 shall be subject to redemption by its owner, by paying the  
7 applicable cost of storage and other charges incident to the  
8 seizure of the motor vehicle and by also showing a valid  
9 insurance identification card, as required under subsection (a).  
10 The director of finance, chief of police, or any police officer  
11 shall be deemed to have seized and taken possession of any motor  
12 vehicle, after having securely sealed it where located and  
13 posted a notice upon the motor vehicle, setting forth the fact  
14 that it has been seized for failure to display a valid insurance  
15 identification card, as required under subsection (a), and  
16 warning all other persons from tampering with the vehicle. Any  
17 person who tampers with or disturbs any motor vehicle that has  
18 been seized pursuant to this section shall be fined not more  
19 than \$500.

20        (g) All vehicles seized and sealed shall remain at the  
21 place of seizure or at any other place that the director of



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



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

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

8        "**§431:10C-104 Conditions of operation and registration of**  
9 **motor vehicles.** (a) Except as provided in section 431:10C-105,  
10 no person shall operate or use a motor vehicle upon any public  
11 street, road, or highway of this State at any time unless such  
12 motor vehicle is insured at all times under a motor vehicle  
13 insurance policy.

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

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



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

5           (e) Notwithstanding any other law to the contrary, if a  
6 person fails to comply with subsection (a), the motor vehicle  
7 may be seized by the director of finance or by any police  
8 officer and held for a period of ten days, during which time the  
9 motor vehicle shall be subject to redemption by its owner, by  
10 paying the applicable cost of storage and other charges incident  
11 to the seizure of the vehicle and by also proving that a valid  
12 motor vehicle insurance policy has been obtained. The director  
13 of finance, chief of police, or any police officer shall be  
14 deemed to have seized and taken possession of any vehicle, after  
15 having securely sealed it where located and posted a notice upon  
16 the motor vehicle, setting forth the fact that it has been  
17 seized for failure to have a valid motor vehicle insurance  
18 policy, as required under subsection (a), and warning all other  
19 persons from tampering with the vehicle. Any person who tampers  
20 with or disturbs any vehicle that has been seized pursuant to  
21 this section shall be fined not more than \$500.





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



1 realization and all claim to that sum shall thereafter be  
2 forever barred.

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

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

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

13 SECTION 7. This Act shall take effect on July 1, 2015.

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INTRODUCED BY:

Mike Gabbal  
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# S.B. NO. 1171

**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.*

