
A BILL FOR AN ACT

RELATING TO MOTOR VEHICLES.

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

1 PART I

2 SECTION 1. Chapter 291C, Hawaii Revised Statutes, is
3 amended by adding a new section to part XVI to be appropriately
4 designated and to read as follows:

5 "§291C- Mopeds; importation, sale, and operation
6 prohibitions. (a) Beginning on January 1, 2019, the
7 importation and sale of any moped powered by a combustion engine
8 shall be prohibited.

9 (b) Beginning on January 1, 2025, the operation of any
10 moped powered by a combustion engine on any public highway,
11 roadway, or street shall be prohibited."

12 PART II

13 SECTION 2. Section 431:10G-101, Hawaii Revised Statutes,
14 is amended as follows:

15 1. By adding two new definitions to be appropriately
16 inserted and to read:



1. "Moped" has the same meaning as prescribed by section 286-

2. 2.

3. "Moped accident" means an accident arising out of the
4. operation, maintenance, or use of a moped, but not involving a
5. motor vehicle."

6. 2. By amending the definition of "owner" to read:

7. "Owner" means a person who holds the legal title to a
8. motorcycle, [~~or~~] motor scooter, or; except that when a
9. motorcycle, [~~or~~] motor scooter, or moped is the subject of a
10. security agreement or lease with a term of not less than one
11. year, with the debtor or lessee having the right of possession,
12. the term owner shall mean the debtor or lessee. Whenever
13. transfer of title to a motorcycle, [~~or~~] motor scooter, or moped
14. occurs, the seller shall be considered the owner until delivery
15. of the executed title to the buyer. Upon delivery of the
16. executed title, the buyer holding the equitable title shall be
17. considered the owner."

18. SECTION 3. Section 431:10G-102, Hawaii Revised Statutes,
19. is amended to read as follows:

20. "§431:10G-102 Conditions of operation and registration of
21. motorcycles, [~~and~~] motor scooters, and mopeds. No person shall



1 drive a motorcycle, ~~[e]~~ motor scooter, or moped upon any public
2 street, road, or highway of this State at any time unless such
3 motorcycle, ~~[e]~~ motor scooter, or moped is insured at all times
4 under a liability policy as provided in section 431:10G-301;
5 provided that this article shall not apply to any antique
6 motorcycle, ~~[e]~~ motor scooter, or moped as defined in section
7 249-1."

8 SECTION 4. Section 431:10G-103, Hawaii Revised Statutes,
9 is amended to read as follows:

10 "§431:10G-103 **Motorcycle, ~~[e]~~ motor scooter, or moped**
11 **self-insurance.** The motorcycle, ~~[e]~~ motor scooter, or moped
12 insurance required by section 431:10G-102 may be satisfied by
13 any owner of a motorcycle, ~~[e]~~ motor scooter, or moped if:

- 14 (1) Such owner provides proof of qualifications as a self-
15 insurer, and a surety bond or other securities
16 affording security substantially equivalent to that
17 afforded under a policy meeting the requirements of
18 section 431:10G-301 and providing coverage at all
19 times for the entire motorcycle, ~~[e]~~ motor scooter,
20 or moped registration period, as determined and
21 approved by the commissioner under rules; and



1 (2) The commissioner is satisfied that in case of injury,
2 death, or property damage, any claimant would have the
3 same rights against such owner as the claimant would
4 have had if a policy meeting the requirements of
5 section 431:10G-301 had been applicable to such
6 motorcycle, [~~or~~] motor scooter[-], or moped."

7 SECTION 5. Section 431:10G-104, Hawaii Revised Statutes,
8 is amended to read as follows:

9 "**§431:10G-104 Prerequisites for obtaining coverage.** (a)
10 Any person seeking to obtain the liability coverage required by
11 this part after June 7, 1989, shall first:

12 (1) Have obtained a valid motorcycle, [~~or~~] motor scooter,
13 or moped license; or

14 (2) Have obtained a valid motorcycle, [~~or~~] motor scooter,
15 or moped learner's permit and have taken and passed a
16 motorcycle education course approved by the department
17 of transportation.

18 (b) A temporary insurance binder covering a period of not
19 more than ninety days may be issued to a person who has a valid
20 motorcycle, [~~or~~] motor scooter, or moped learner's permit. To
21 obtain a temporary binder, a person shall submit proof to the



1 insurer of the person's enrollment in an approved motorcycle
2 education course. The temporary insurance binder shall be
3 subject to cancellation should the person fail to take,
4 complete, and pass the course for which proof was submitted to
5 the insurer."

6 SECTION 6. Section 431:10G-105, Hawaii Revised Statutes,
7 is amended to read as follows:

8 "§431:10G-105 Tort liability. (a) With respect to
9 accidental harm incurred in or arising out of a motorcycle
10 accident, ~~[or]~~ motor scooter accident, or moped accident, tort
11 liability is not abolished.

12 (b) Any owner or operator of a motorcycle, ~~[or]~~ motor
13 scooter, or moped involved in a motor vehicle accident as
14 defined in section 431:10C-103 and who incurs accidental harm as
15 defined in section 431:10C-103, including such person's
16 representative or legal guardian, shall have a cause of action
17 in tort as provided in section 431:10C-306."

18 SECTION 7. Section 431:10G-106, Hawaii Revised Statutes,
19 is amended to read as follows:

20 "§431:10G-106 Verification of insurance. Every insurer
21 shall issue to each of its insureds a paper or electronic proof



1 of insurance card for each motorcycle, ~~or~~ motor scooter, or
2 moped for which a liability policy under this article is
3 written. The electronic proof of insurance card may be accessed
4 directly through the licensed insurer's website, application, or
5 database. The proof of insurance card shall show the following:

- 6 (1) Name, make, year, and factory or serial number of the
7 motorcycle, ~~or~~ motor scooter, or moped; provided
8 that insurers of five or more motorcycles, ~~or~~ motor
9 scooters, or mopeds that are under common registered
10 ownership and used in the regular course of business
11 shall not be required to indicate the name, make,
12 year, and the factory or serial number of each
13 motorcycle, ~~or~~ motor scooter ~~or~~ moped;
14 (2) Policy number;
15 (3) Names of the insured and the insurer; and
16 (4) Effective dates of coverage including the expiration
17 date.

18 The proof of insurance card shall be carried on, or accessible
19 on a mobile electronic device, as defined in section 291C-137,
20 by the person operating the insured motorcycle, ~~or~~ motor



1 scooter, or moped at all times and shall be exhibited to a law
2 enforcement officer upon demand."

3 SECTION 8. Section 431:10G-107, Hawaii Revised Statutes,
4 is amended to read as follows:

5 "§431:10G-107 Drivers education fund underwriters fee;
6 motorcycle, [~~and~~] motor scooter, and moped operators education
7 fund. (a) The commissioner shall assess and levy upon each
8 insurer, and self-insurer, a drivers education fund underwriters
9 fee of \$2 a year on each motorcycle, [~~or~~] motor scooter, or
10 moped insured by each insurer or self-insurer. This fee shall
11 be due and payable on an annual basis by means and at a time to
12 be determined by the commissioner.

13 (b) There is created in the treasury of the State a
14 special fund to be known as the motorcycle, [~~and~~] motor scooter,
15 and moped operators education fund. The commissioner shall
16 deposit the fees collected under this section into the
17 motorcycle, [~~and~~] motor scooter, and moped operators education
18 fund.

19 (c) The fees deposited for each fiscal year into the
20 motorcycle, [~~and~~] motor scooter, and moped operators education
21 fund, when appropriated, shall be available to the department of



1 transportation for the administration of a drivers education
2 program for operators of motorcycles, [~~e~~] motor scooters[~~-~~], or
3 mopeds. The department of transportation may spend the amount
4 collected from these fees for the purposes of this section."

5 SECTION 9. Section 431:10G-108, Hawaii Revised Statutes,
6 is amended to read as follows:

7 "§431:10G-108 Penalties. Any person who violates this
8 article shall be subject to a citation by the police and shall
9 be subject to a nonsuspendable fine of not less than \$100 nor
10 more than \$1,000, thirty days imprisonment, a one year driver's
11 license suspension, or any combination thereof, for each
12 violation.

13 Any person cited under this section shall have an
14 opportunity to present a good faith defense, including but not
15 limited to lack of knowledge or proof of insurance. The general
16 penalty provision of this section shall not apply to:

- 17 (1) Any operator of a motorcycle, [~~e~~] motor scooter, or
18 moped owned by another person if the operator's own
19 insurance covers such driving;



1 (2) Any operator of a motorcycle, ~~[or]~~ motor scooter, or
2 moped owned by that person's employer during the
3 normal scope of that person's employment; or

4 (3) Any operator of a borrowed motorcycle, ~~[or]~~ motor
5 scooter, or moped if the operator holds a reasonable
6 belief that the subject vehicle is insured."

7 SECTION 10. Section 431:10G-201, Hawaii Revised Statutes,
8 is amended as follows:

9 1. By amending its title and subsection (a) to read:

10 "**§431:10G-201 Making of motorcycle, ~~[and]~~ motor scooter,**
11 **and moped insurance rates.** (a) All premium rates for
12 motorcycle, ~~[and]~~ motor scooter, and moped insurance shall be
13 made in accordance with the following provisions:

14 (1) Rates shall not be excessive, inadequate, or unfairly
15 discriminatory;

16 (2) Due consideration shall be given to:

17 (A) Past and prospective loss experience within and
18 outside this State, catastrophe hazards, if any,
19 reasonable margin for profit, and contingencies,
20 dividends, savings, or unabsorbed premium



1 deposits allowed or returned by insurers to their
2 policyholders, members or subscribers;

3 (B) Past and prospective expenses both country-wide
4 and those specially applicable to this State in
5 the sale and administration of motorcycles, ~~and~~
6 motor scooters, and mopeds insurance; and

7 (C) Investment income from reserves, unearned
8 insurance premiums, and other unearned proceeds
9 received on account of motorcycle, ~~and~~ motor
10 scooter, and moped insurance sold, and all other
11 factors that may be deemed relevant, if they are
12 established to have a probable effect upon
13 losses, expense, or rates, such as but not
14 limited to types of vehicles, occupations, and
15 involvement in past accidents;

16 (3) The systems of expense provisions included in the
17 rates for use by any insurer or group of insurers may
18 differ from those of other insurers or groups of
19 insurers to reflect the requirements of the operating
20 methods of any insurer or group with respect to any
21 class of insurance, or with respect to any subdivision



1 or combination thereof for which subdivision or
2 combination separate expense provisions are
3 applicable; and

4 (4) Risks may be grouped by classifications for the
5 establishing of rates and minimum premiums.

6 Classification rates may be modified to produce rates
7 for individual risks in accordance with rating plans
8 which establish standards for measuring variations in
9 hazards or expense provisions, or both. The standards
10 may measure any differences among risks that can be
11 demonstrated to have a probable effect upon losses or
12 expenses."

13 2. By amending subsection (c) to read:

14 "(c) After June 7, 1989, each insurer of a motorcycle,
15 [~~or~~] motor scooter, or moped shall provide a fifteen per cent
16 reduction off premium charges each insurer assesses for each new
17 and renewal policy for liability coverage issued pursuant to
18 this article if the applicant has successfully completed a
19 motorcycle education course approved by the department of
20 transportation."



1 SECTION 11. Section 431:10G-202, Hawaii Revised Statutes,
2 is amended by amending subsection (a) to read as follows:

3 "(a) Every insurer shall file with the commissioner every
4 manual of classification, rule, rate, rating plan, designation
5 of rating territories, or standard for motorcycle, ~~or~~ motor
6 scooter, or moped insurance which it proposes to use. Every
7 filing shall state the proposed effective date of the filing and
8 the character and extent of the coverage contemplated."

9 SECTION 12. Section 431:10G-206, Hawaii Revised Statutes,
10 is amended to read as follows:

11 "**§431:10G-206 Rate administration.** Except as otherwise
12 provided in this article, the commissioner shall implement and
13 evaluate motorcycle, ~~and~~ motor scooter, or moped insurance
14 rates in compliance with article 14."

15 SECTION 13. Section 431:10G-301, Hawaii Revised Statutes,
16 is amended as follows:

17 1. By amending its title and subsection (a) to read:

18 "**§431:10G-301 Required motorcycle, ~~and~~ motor scooter,**
19 **and moped policy coverage.** (a) An insurance policy covering a
20 motorcycle, ~~or~~ motor scooter, or moped shall provide insurance
21 in the following amounts to pay, on behalf of the owner or any



1 operator of the insured motorcycle, ~~[or]~~ motor scooter, or
 2 moped, sums that the owner or any operator may legally be
 3 obligated to pay for injury, death, or damage to the property of
 4 others, except property owned by, being transported by, or in
 5 charge of the insured that arise out of the ownership,
 6 operation, maintenance, or use of the motorcycle, ~~[or]~~ motor
 7 scooter ~~[+]~~, or moped:

- 8 (1) Liability coverage of not less than \$20,000 per
 9 person, with an aggregate limit of \$40,000 per
 10 accident, for all damages arising out of accidental
 11 harm sustained as a result of any one accident; and
- 12 (2) Liability coverage of not less than \$10,000 for all
 13 damages arising out of injury to or destruction of
 14 property, including motorcycles, ~~[or]~~ motor scooters,
 15 or mopeds and including the loss of use thereof, but
 16 not including property owned by, being transported by,
 17 or in the charge of the insured, as a result of any
 18 one accident ~~[+]~~;
- 19 (3) With respect to any motorcycle, motor scooter, or
 20 moped registered or principally garaged in this State,
 21 liability coverage provided therein or supplemental



1 thereto, in limits for bodily injury or death set
2 forth in paragraph (1), under provisions filed with
3 and approved by the commissioner, for the protection
4 of persons insured thereunder who are legally entitled
5 to recover damages from owners or operators of
6 uninsured motor vehicles, as well as owners or
7 operators of motorcycles, motor scooter, or mopeds,
8 because of bodily injury, sickness, or disease,
9 including death, resulting therefrom; provided that
10 the coverage required under this paragraph shall not
11 be applicable where any named insured in the policy
12 rejects the coverage in writing; and
13 (4) Coverage for loss resulting from bodily injury or
14 death suffered by any person legally entitled to
15 recover damages from owners or operators of
16 underinsured motor vehicles, as well as motorcycles,
17 motor scooters, or mopeds. An insurer may offer
18 underinsured motorcycle, motor scooter, or moped
19 coverage required by this paragraph in the same manner
20 as uninsured motorcycle, motor scooter, or moped
21 coverage; provided that the offer of both shall:



- 1 (A) Be conspicuously displayed so as to be readily
- 2 noticeable by the insured;
- 3 (B) Set forth the premium for the coverage adjacent
- 4 to the offer in a manner that the premium is
- 5 clearly identifiable with the offer and may be
- 6 easily subtracted from the total premium to
- 7 determine the premium payment due in the event
- 8 the insured elects not to purchase the option;
- 9 and
- 10 (C) Provide for written rejection of the coverage by
- 11 requiring the insured to affix the insured's
- 12 signature in a location adjacent to or directly
- 13 below the offer."

14 2. By amending subsection (c) to read:

15 (c) Any operator or passenger of a motorcycle, ~~or~~ motor
16 scooter, or moped as defined in section 286-2 who receives
17 injuries or dies in a motor vehicle accident may not claim
18 personal injury protection benefits under a motor vehicle
19 insurance policy, unless expressly provided for in the motor
20 vehicle policy."



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PART III

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

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

SECTION 16. This Act shall take effect upon its approval.

INTRODUCED BY:



By Request

JAN 25 2017



Report Title:

Insurance; Motorcycles; Motor Scooters; Mopeds

Description:

Prohibits the importation and sale of combustion engine mopeds beginning on January 1, 2019. Prohibits combustion engine mopeds from being operated on public highways, roadways, or streets beginning on January 1, 2025. Requires motorcycles, motor scooters, and mopeds to have liability and bodily injury insurance coverage and the option to obtain uninsured and underinsured insurance coverage. Requires mopeds to meet various insurance requirements established for motorcycles and motor scooters.

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