

"CHAPTER 287
MOTOR VEHICLE SAFETY RESPONSIBILITY ACT

Section

- 287-1 Definitions
- 287-2 Administrator to administer chapter; appeal to circuit court
- 287-3 Furnishing of operating records
- 287-4 Report required following accident
- 287-5 Security required unless evidence of insurance
- 287-6 Suspension of license
- 287-7 Exceptions
- 287-8 Further exceptions to requirement of security
- 287-9 Duration of suspension
- 287-10 Application to nonresidents and unlicensed drivers
- 287-11 Form and amount of security
- 287-12 Custody, disposition, and return of security
- 287-13 Repealed
- 287-14 Matters not to be evidence in civil court
- 287-15 Report of nonpayment of judgments
- 287-16 Suspension for nonpayment of judgment; exceptions
- 287-17 Suspension to continue until judgments paid and proof given
- 287-18 Payment sufficient to satisfy requirements
- 287-19 Installment payment of judgment; default
- 287-20 Proof of financial responsibility required upon conviction of certain offenses
- 287-21 Alternate methods of giving proof
- 287-22 Certificate of insurance as proof
- 287-22.1 Certificate of insurance as proof; mandatory, when
- 287-23 Certificate furnished by nonresident as proof
- 287-24 Motor vehicle liability policy defined
- 287-25 Owner's policy requirements
- 287-26 Driver's policy requirements
- 287-27 Contents of motor vehicle liability policy
- 287-28 Liabilities which need not be covered
- 287-29 General provisions governing liability policies
- 287-30 Excess coverage permitted
- 287-31 Reimbursement of insurer; proration of insurance
- 287-32 Combining policies and issuing binders to meet requirements
- 287-33 Notice of cancellation or termination of certified policy
- 287-34 Chapter not to affect other policies
- 287-35 Bond as proof
- 287-36 Money or bonds as proof
- 287-37 Owner may give proof for others

- 287-38 Substitution of proof
- 287-39 Other proof may be required
- 287-40 Duration of proof; when proof may be canceled or returned
- 287-41 Surrender of license on violation
- 287-42 Self-insurers
- 287-43 Assigned risk plans
- 287-44 Penalties
- 287-45 Exceptions
- 287-46 Chapter supplemental to traffic ordinances and motor vehicle laws
- 287-47 Other relief available
- 287-48 Application of chapter to suspensions and revocations prior to January 1, 1950

Cross References

Nonresident violator compact, see chapter 291A.

" **§287-1 Definitions.** As used in this chapter:

"Administrator" means the chief of police of each county or the director of finance of each county and their authorized subordinates charged with the responsibility of administering this chapter;

"Driver" means every person who is in actual physical control of a motor vehicle;

"Judgment" means any judgment, order, or decree which has become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of the United States or any territory or state thereof upon a cause of action arising out of the ownership, maintenance, or use of any motor vehicle for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages;

"Legal owner" has the same meaning prescribed by section 286-2;

"License" means any license or permit issued or recognized under chapter 286 to operate motor vehicles;

"Motor vehicle" has the meaning prescribed by section 286-2 and includes trailers and semitrailers designed for use by such vehicles, but does not include road rollers, farm tractors, tractor cranes, power shovels, and well drillers;

"Nonresident" means every person who is not a resident of the State;

"Nonresident's operating privilege" means the privilege conferred upon a nonresident by laws of the State pertaining to the operation by the nonresident of a motor vehicle, or the use of a motor vehicle owned by the nonresident in this State;

"Owner" or "registered owner" has the meaning prescribed by section 286-2 to the term "owner";

"Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of such proof, arising out of the ownership, maintenance, or use of a motor vehicle, in the amounts prescribed by section 294-10(a);

"Registration" means the certificate of registration issued pursuant to chapter 286;

"State" except in reference to the State of Hawaii means any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada. [L 1949, c 393, pt of §1; RL 1955, §160-80; am L 1963, c 98, §1; am imp L 1967, c 214, §§2, 15; HRS §287-1; am L 1970, c 164, §3; am L 1980, c 84, pt of §1; am L 1982, c 210, §1; gen ch 1985]

Note

Section 294-10(a) referred to in text is repealed. For present provision, see §431:10C-301.

Revision Note

Definitions rearranged.

Case Notes

Definition of "owner" may not have general application as used in private insurance policies. 200 F. Supp. 451.

Definition of "owner" inapplicable in determining "owned automobile" as used in insurance policy. 349 F.2d 502, aff'g 230 F. Supp. 444.

On applicability, see 146 F. Supp. 729.

" **§287-2 Administrator to administer chapter; appeal to circuit court.** (a) The administrator shall administer and enforce this chapter and make rules and regulations consistent herewith and necessary for its administration and shall provide for hearings upon request of any person aggrieved by orders or acts of the administrator under this chapter. The rules and regulations shall be as nearly uniform throughout the State as the circumstances permit, but the fact of nonuniformity shall not of itself be sufficient to make unenforceable any rule or regulation, otherwise lawful, promulgated hereunder.

(b) Any order or act of any administrator pursuant to the authority given by this chapter or by rules or regulations hereunder, shall be subject to appeal to the circuit court of the circuit in which the order or act has been entered or done, which shall have jurisdiction to affirm, vacate, and modify, in whole or in part, any such order or act. Any person aggrieved may file an appeal therefrom in the office of the clerk of the circuit court within thirty days after the effective date of the order or act. The appeal shall not operate to suspend the order or act unless for cause satisfactory to the court and upon such conditions as may be imposed by the court, the court shall otherwise order. The administrator upon service of a copy of

the appeal shall forthwith transmit to the clerk of court a transcript of the papers filed with the administrator and a certified transcript of the evidence, if any, adduced. Upon the filing of the transcript, the appeal shall be at issue, and upon the application of either party, may be advanced and assigned for hearing at the earliest possible date to determine whether the action of the administrator is in accordance with law. The prosecuting officer and the legal advisor of the county shall render assistance to the administrator upon the administrator's request in enforcing and carrying out this chapter and in prosecuting and defending proceedings hereunder. [L 1949, c 393, pt of §1; RL 1955, §160-81; HRS §287-2; am L 1980, c 84, pt of §1; gen ch 1985]

Rules of Court

Appeal to circuit court, see HRCF rule 72.

" **§287-3 Furnishing of operating records.** (a) The traffic violations bureaus of the district courts, upon request, shall furnish any person a certified abstract of the bureaus' record, if any, of any person relating to all alleged moving violations and any convictions resulting therefrom, arising from the operation of a motor vehicle and any administrative license revocation pursuant to chapter 291E, part III and chapter 286, part XIV, as it was in effect on or before December 31, 2001. The traffic violations bureaus may collect a fee, not to exceed \$20, of which \$18 shall be deposited into the general fund and \$2 shall be deposited into the judiciary computer system special fund.

(b) Notwithstanding any provision to the contrary, all alleged moving violations as well as any convictions resulting therefrom or any administrative license suspension pursuant to chapter 291A shall not be included in a certified abstract of the bureaus' record. [L 1949, c 393, pt of §1; RL 1955, §160-82; HRS §287-3; am L 1980, c 84, pt of §1; am L 1982, c 210, §2; am L Sp 1991, c 1, §16; am L 1993, c 135, §2; am L 1994, c 73, §1; am L 1996, c 203, §§3, 9; am L 1999, c 299, §1; am L 2001, c 157, §9; am L 2010, c 64, §1]

Case Notes

Based on the clear language of subsection (a) and §291-3.3(b), and because §291-3.3(b) does not describe a "moving violation" which arises from the "operation of a motor vehicle", the district court disregarded the statutory requirements and abused its discretion in determining that a violation of §291-3.3(b)

was properly included as part of defendant's traffic abstract. 123 H. 293 (App.), 233 P.3d 713 (2010).

" **§287-4 Report required following accident.** The driver of every motor vehicle which is in any manner involved in an accident within this State in which any person is killed or injured or in which damage to the property of any one person, including the driver, to an apparent extent in excess of \$3,000 is sustained shall at the earliest practical time, and in any event within twenty-four hours after the accident, report the matter in writing or in person to the chief of police. The report, the form of which shall be prescribed by the chief of police and administrator, shall contain information to enable the administrator to determine whether the requirements for the deposit of security under sections 287-5 and 287-6 are inapplicable by reason of the existence of insurance or other exceptions specified in this chapter. If the driver is physically incapable of making the report, any other occupant in the vehicle at the time of the accident capable of making the report shall make or cause to be made the report not made by the driver, and the registered owner of the motor vehicle involved in the accident shall, unless the report is filed, within ten days after learning of the accident make the report. The driver, occupant, and registered owner shall furnish such additional relevant information as the chief of police or administrator shall require. If the reports required hereunder are made pursuant to any ordinance or other provision or requirement of law, no additional report, except as specifically provided herein, shall be required hereby. [L 1949, c 393, pt of §1; RL 1955, §160-83; HRS §287-4; am L 1970, c 164, §3; am L 1977, c 23, §2; am L 1980, c 84, pt of §1; gen ch 1985; am L 1990, c 39, §1; am L 1995, c 216, §1]

Cross References

Accidents and accident reports, see chapter 291C, part II.

" **§287-5 Security required unless evidence of insurance.** If twenty days after the receipt of a report of a motor vehicle accident within this State which has resulted in bodily injury or death or damage to property of any one person in excess of \$3,000, the administrator does not have on file evidence satisfactory to the administrator that the person who would otherwise be required to file security under section 287-6 has been released from liability, or has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in

installments with respect to all claims for injuries or damages resulting from the accident, the administrator shall determine the amount of security which is sufficient in the administrator's judgment to satisfy any judgment or judgments for damages resulting from the accident as may be recovered against each driver or owner. This section shall be applicable to each driver or owner notwithstanding that the administrator determines that the amount of security required hereunder shall as to any such driver or owner be less than \$3,000. [L 1949, c 393, pt of §1; am L 1951, c 183, §1; RL 1955, §160-84; HRS §287-5; am L 1970, c 164, §3; am L 1977, c 23, §3; am L 1980, c 84, pt of §1; gen ch 1985; am L 1990, c 39, §2; am L 1995, c 216, §2]

Case Notes

Purpose of statute is to protect the injured members of the public. Where motorist involved in serious accident, financial responsibility law may restrict the motorist's use of public highways. 146 F. Supp. 729.

" **§287-6 Suspension of license.** The administrator shall suspend the license or permit of each driver and the license of the registered owner of the motor vehicle in any manner involved in the accident and if the driver is a nonresident, any privilege of operating the motor vehicle within the State shall cease, and if the owner of the motor vehicle is a nonresident, the privilege of the use within the State of any motor vehicle owned by the nonresident shall also cease, unless the driver or owner or both have satisfied the requirements of section 287-5 or have deposited security in the sum determined by the administrator. Notice of the suspension shall be sent by the administrator to the driver and registered owner and the nonresident owner not less than ten days prior to the effective date of the suspension and shall state the amount required as security. Where erroneous information is given the administrator with respect to the matters set forth in [paragraph] (1), (2), or (3) of section 287-7, the administrator shall take appropriate action as hereinbefore provided within sixty days after receipt by the administrator of correct information with respect to those matters. [L 1949, c 393, pt of §1; RL 1955, §160-85; HRS §287-6; am L 1970, c 164, §3; am L 1977, c 23, §4; am L 1980, c 84, pt of §1; gen ch 1985]

" **§287-7 Exceptions.** Sections 287-5 and 287-6 shall not apply under the conditions stated in section 287-8 nor:

- (1) To the driver or registered owner if the registered owner had in effect at the time of the accident an automobile liability policy with respect to the motor vehicle involved in the accident;
- (2) To the driver, if not the registered owner of the motor vehicle if there was in effect at the time of the accident an automobile liability policy or bond with respect to the driver's operation of motor vehicles not owned by the driver;
- (3) To the driver or registered owner if the liability of the operator or registered owner for damages resulting from such action is, in the judgment of the administrator, covered by any other form of liability insurance policy or bond;
- (4) To any person qualifying as a self-insurer under section 287-42, or to any driver of a motor vehicle for the self-insurer where the self-insurer is responsible for the acts of the driver.

No automobile liability policy or bond shall be effective under this section unless issued by an insurance company or surety company authorized to do business in the State, except that if the motor vehicle is registered elsewhere than in this State at the effective date of the policy or bond, or the most recent renewal thereof, the policy or bond shall not be effective under this section unless the insurance company or surety company, if not authorized to do business in the State, executes a power of attorney authorizing the insurance commissioner to accept service on its behalf of notice of process in any action upon the policy or bond arising out of the action; provided every such policy or bond is subject to a limit, exclusive of interest and costs, of not less than the liability coverages stated in section 294-10(a). [L 1949, c 393, pt of §1; RL 1955, §160-86; am L 1963, c 98, §1; HRS §287-7; am L 1970, c 164, §3; am L 1980, c 84, pt of §1; am L 1982, c 210, §3; gen ch 1985]

Note

Section 294-10(a) referred to in text is repealed. For present provision, see §431:10C-301.

Law Journals and Reviews

Tort and Insurance "Reform" in a Common Law Court. 14 UH L. Rev. 55.

Case Notes

Under this section and §431-448 insurer must provide a minimum of \$10,000 uninsured motorist coverage for each vehicle under a single liability insurance policy. 59 H. 44, 575 P.2d 477.

" **§287-8 Further exceptions to requirement of security.** The requirements as to security and suspension of sections 287-5 and 287-6 shall not apply:

- (1) To the driver or the registered owner of a motor vehicle involved in an accident where no injury or damage was caused to the person or property of anyone other than the driver or registered owner;
- (2) To the driver or the registered owner of the motor vehicle legally parked at the time of accident;
- (3) To the driver of a motor vehicle involved in an accident during the normal scope of that person's employment;
- (4) To the registered owner of the motor vehicle if at the time of the accident the vehicle was being operated without the registered owner's permission, express or implied, or was parked by a person who had been operating the motor vehicle without such permission; nor
- (5) If prior to the date the administrator would otherwise suspend the license or permit under section 287-6, there is filed with the administrator evidence satisfactory to the administrator that the driver who would otherwise have to file security has been released from liability or been finally adjudicated not to be liable or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments, with respect to all claims for injuries or damages resulting from the accident. [L 1949, c 393, pt of §1; RL 1955, §160-87; HRS §287-8; am L 1970, c 164, §3; am L 1980, c 84, pt of §1; am L 1984, c 110, §1; gen ch 1985; am L 2002, c 47, §1]

Case Notes

Intended to require irresponsible operators to furnish alternative proofs of financial responsibility. 40 H. 213. Uninsured motorist coverage. 62 H. 424, 616 P.2d 1357.

" **§287-9 Duration of suspension.** The license and permit suspended as provided in section 287-6 shall remain so suspended

and shall not be renewed nor shall any new license or permit be issued to any of such persons until:

- (1) The person whose license or permit is suspended deposits or there is deposited on the person's behalf the security required under section 287-6; or
- (2) Two years have elapsed following the date of the suspension and evidence satisfactory to the administrator has been filed with the administrator that during such period no action for damages arising out of the accident has been commenced; or
- (3) Evidence satisfactory to the administrator has been filed with the administrator of a release of the driver from liability, or a final adjudication of nonliability of the driver, or a duly acknowledged written agreement, in accordance with section 287-8(5); provided, in the event there is any default in the payment of any installment under any duly acknowledged written agreement, then upon notice of the default, the administrator shall forthwith suspend the license of the person defaulting thereunder which shall not be restored unless and until (A) the person deposits and thereafter maintains security as required under section 287-6 in such amount as the administrator may then determine, or (B) two years have elapsed following the date when such security was required and during such period no action upon the agreement has been instituted for enforcement thereof. [L 1949, c 393, pt of §1; RL 1955, §160-88; HRS §287-9; am L 1970, c 164, §3; am L 1980, c 84, pt of §1; am L 1984, c 110, §2; gen ch 1985]

Revision Note

Section "287-8(5)" substituted for "287-8(4)".

" **§287-10 Application to nonresidents and unlicensed drivers.** In case the driver involved in an accident within the State has no license or permit, the driver shall not be allowed a license or permit until the driver has complied with the requirements of this chapter to the same extent that would be necessary if at the time of the accident the driver held such a license or permit. [L 1949, c 393, pt of §1; RL 1955, §160-89; HRS §287-10; am L 1970, c 164, §3; gen ch 1985]

" **§287-11 Form and amount of security.** The security required under this chapter shall be in such form and in such amount as the administrator may require but in no case in excess

of the limits specified in section 287-7 in reference to the acceptable limits of a policy or bond. The person depositing security shall specify in writing the person or persons on whose behalf a deposit is made and, at any time while the deposit is in the custody of the administrator or the treasurer or director of finance of the county, the person depositing it may, in writing, amend the specification of the person or persons on whose behalf deposit is made to include an additional person or persons; provided that a single deposit of security shall be applicable only on behalf of persons required to furnish security because of the same accident.

The administrator may reduce the amount of security ordered in any case within six months after the date of the accident, if in the administrator's judgment the amount ordered is excessive and the excess deposited over the reduced amount ordered shall be returned to the depositor or the depositor's personal representative forthwith notwithstanding section 287-12. [L 1949, c 393, pt of §1; RL 1955, §160-90; HRS §287-11; am L 1980, c 84, pt of §1; gen ch 1985]

" **§287-12 Custody, disposition, and return of security.** Security deposited in compliance with the requirements of this chapter shall be placed by the administrator in the custody of the county treasurer or director of finance and shall be applicable only to the payment of a judgment or judgments rendered against the person or persons on whose behalf the deposit was made, for damages arising out of the accident in question in an action, begun not later than one year after the date of the accident or within one year after the date of deposit of any security under [paragraph] (3) of section 287-9 and such deposit or any balance thereof shall be returned to the depositor or the depositor's personal representative when evidence satisfactory to the administrator has been filed with the administrator that there has been a release from liability, or a final adjudication of nonliability, or a duly acknowledged agreement, in accordance with [paragraph] (4) of section 287-8 has been filed, or whenever after the expiration of one year (1) from the date of the accident, or (2) from the date of deposit of any security under [paragraph] (3) of section 287-9, the administrator is given reasonable evidence that there is no pending action and no judgment rendered in the action left unpaid. The security deposited shall not be subject to any attachment or execution unless the attachment or execution arises out of suit for damages as aforesaid. [L 1949, c 393, pt of §1; RL 1955, §160-91; HRS §287-12; am L 1980, c 84, pt of §1; gen ch 1985]

" **§287-13 REPEALED.** L 1974, c 75, §2.

" **§287-14 Matters not to be evidence in civil court.**

Neither the report required by section 287-4, the action taken by the administrator pursuant to this chapter, the findings of the administrator upon which the action is based, nor the security filed as provided in this chapter shall be referred to in any way or be any evidence of the negligence or due care of either party at the trial of any action to recover damages. [L 1949, c 393, pt of §1; RL 1955, §160-92; HRS §287-14; am L 1980, c 84, pt of §1]

" **§287-15 Report of nonpayment of judgments.** Whenever any person fails within sixty days to satisfy any judgment upon the written request of the judgment creditor or the judgment creditor's attorney, the clerk of the court or the judge of a court which has no clerk in which any such judgment is rendered shall forward to the administrator immediately after the expiration of the sixty days a certified copy of the judgment. If the defendant named in any certified copy of a judgment reported to the administrator is a nonresident, the administrator shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the defendant is a resident. [L 1949, c 393, pt of §1; RL 1955, §160-93; HRS §287-15; am L 1980, c 84, pt of §1; gen ch 1985]

" **§287-16 Suspension for nonpayment of judgment; exceptions.**

The administrator, upon the receipt of a certified copy of the judgment shall forthwith suspend the license of any person against whom such judgment was rendered, except as hereinafter otherwise provided in this section and in section 287-19.

If the judgment creditor consents in writing, in such form as the administrator may prescribe, that the judgment debtor be allowed a license, the same may be allowed by the administrator, in the administrator's discretion, for six months from the date of the consent and thereafter until the consent is revoked in writing, notwithstanding default in the payment of the judgment, or of any installments thereof prescribed in section 287-19, provided the judgment debtor furnished proof of financial responsibility. [L 1949, c 393, pt of §1; RL 1955, §160-94; HRS §287-16; am L 1980, c 84, pt of §1; gen ch 1985]

" **§287-17 Suspension to continue until judgments paid and proof given.** The license shall remain so suspended and shall not be renewed, nor shall any such license be thereafter issued in the name of the person, including any such person not

previously licensed, unless and until every such judgment is stayed, satisfied in full or to the extent hereinafter provided, and until the person gives proof of financial responsibility subject to the exceptions stated in sections 287-16 and 287-19. [L 1949, c 393, pt of §1; RL 1955, §160-95; HRS §287-17; am L 1982, c 210, §4]

" **§287-18 Payment sufficient to satisfy requirements.**

Judgments herein referred to shall, for the purpose of this chapter only, be deemed satisfied:

- (1) When \$25,000 is credited upon any judgment or judgments rendered in excess of that amount because of accidental harm sustained by any one person as a result of any one accident applicable to each person sustaining accidental harm; or
- (2) When \$10,000 is credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident.

Payments made in settlement of any claims because of bodily injury, death, or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this section. [L 1949, c 393, pt of §1; RL 1955, §160-96; am L 1963, c 98, §1; HRS §287-18; am L 1982, c 210, §5]

" **§287-19 Installment payment of judgment; default.** (a) A judgment debtor upon due notice to the judgment creditor may apply to the court in which the judgment was rendered for the privilege of paying the judgment in installments and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may for the purposes of this chapter only so order and fix the amounts and times of payment of the installments.

(b) The administrator shall not suspend a license and shall restore any license suspended following nonpayment of a judgment, when the judgment debtor gives proof of financial responsibility and obtains such an order permitting the payment of the judgment in installments, and while the payment of any installment is not in default.

(c) If the judgment debtor fails to pay any installment as specified by the court order, then upon notice of the default, the administrator shall forthwith suspend the license of the judgment debtor until the judgment is satisfied as provided in this chapter. [L 1949, c 393, pt of §1; RL 1955, §160-97; HRS §287-19; am L 1980, c 84, pt of §1]

" **§287-20 Proof of financial responsibility required upon conviction of certain offenses.** (a) Whenever a driver's license has been suspended or revoked:

- (1) Pursuant to section 291E-65 or part III of chapter 291E, except as provided in section 291E-41(f);
- (2) Upon a conviction of any offense pursuant to law, except where the conduct giving rise to the instant offense is also a violation of part III of chapter 291E and a requirement to furnish and maintain proof of financial responsibility has already been imposed pursuant to that part; or
- (3) In the case of minors, pursuant to part V of chapter 571,

the license shall not at any time thereafter be issued to the person whose license has been suspended or revoked, nor shall the person thereafter operate a motor vehicle, unless and until the person has furnished and thereafter maintains proof of financial responsibility; provided that this section shall not apply to a license suspended or revoked pursuant to section 291E-61(b)(1) or 291E-64(b)(1), any conviction of a moving violation, any administrative license suspension pursuant to chapter 291A, or the first conviction within a five-year period for driving without a valid motor vehicle insurance policy.

This subsection shall not apply to a suspension or revocation of a provisional license under section 286-102.6(d).

(b) Whenever by reason of a conviction of, or adjudication under part V of chapter 571 by reason of, any of the offenses listed in this subsection, under the laws of the State or ordinances of any county, a court of competent jurisdiction has discretion to revoke or suspend a driver's license but does not revoke or suspend the license, the administrator nevertheless, after the expiration of thirty days from the date of conviction or adjudication, shall suspend the license and shall keep the license suspended, and the person so convicted or adjudicated shall not thereafter operate a motor vehicle, unless and until the person so convicted or adjudicated furnishes and thereafter maintains proof of financial responsibility. The offenses referred to are:

- (1) Reckless or inattentive driving, operating a vehicle while under the influence of an intoxicant, driving while under the influence of intoxicating liquor, driving while under the influence of drugs, and driving while that person's license has been suspended or revoked, and operating a vehicle after license and privilege to operate a vehicle have been suspended or revoked, except when a person's license has been

- suspended or revoked for the first conviction of driving without a motor vehicle insurance policy; and
- (2) Conviction or adjudication under part V of chapter 571 by reason of any moving violation offense involving a motor vehicle if the motor vehicle is in any manner involved in an accident in which any person is killed or injured, or in which damage to property results to an apparent extent in excess of \$3,000 and there are reasonable grounds for the administrator to believe that the defendant is at fault.

(c) If any person, at any time of conviction of, or adjudication under part V of chapter 571 by reason of, any of the offenses in this section, does not hold a valid driver's license, no license shall at any time thereafter be issued to the person unless and until the person furnishes and thereafter maintains proof of financial responsibility, unless otherwise specified in this section. [L 1949, c 393, pt of §1; am L 1951, c 185, §1; am L 1953, c 75, §1; RL 1955, §160-98; am L 1959, c 219, §1; HRS §287-20; am L 1970, c 164, §3; am L 1977, c 23, §5; am L 1978, c 78, §1; am L 1980, c 84, pt of §1; am L 1982, c 210, §6; am L 1984, c 110, §3; am L 1985, c 195, §2; am L 1990, c 39, §3; am L Sp 1991, c 1, §17; am L 1993, c 135, §3; am L 1994, c 197, §1; am L 1995, c 226, §8; am L 1996, c 20, §2; am L 1997, c 102, §4 and c 251, §10; am L 1998, c 299, §1; am L 1999, c 109, §1; am L 2000, c 189, §25; am L 2007, c 74, §2; am L 2008, c 171, §§15, 20; am L 2009, c 11, §17 as superseded by c 88, §13; am L 2010, c 166, §4; am L 2012, c 327, §6]

" **§287-21 Alternate methods of giving proof.** Proof of financial responsibility when required under this chapter with respect to a motor vehicle or with respect to a person who is not the owner of a motor vehicle may be given by filing:

- (1) A certificate of insurance as provided in section 287-22 or 287-23; or
- (2) A bond as provided in section 287-35; or
- (3) A certificate of deposit of money or securities as provided in section 287-36; or
- (4) A certificate of self-insurance, as provided in section 287-42, supplemented by an agreement by the self-insurer that, with respect to accidents occurring while the certificate is in force, the self-insurer will pay the same judgments and in the same amounts that an insurer would have been obligated to pay under an owner's motor vehicle liability policy if it had issued such a policy to the self-insurer. [L 1949, c 393, pt of §1; RL 1955, §160-99; HRS §287-21; gen ch 1985]

Case Notes

Defendant attempted to show compliance of proof of financial responsibility by other means. 71 H. 282, 788 P.2d 172.

" **§287-22 Certificate of insurance as proof.** Proof of financial responsibility may be furnished by filing with the administrator the written certificate of any insurance carrier duly authorized to do business in the State certifying that there is in effect a motor vehicle liability policy for the benefit of the person or persons required to furnish proof of financial responsibility. The certificate shall give the effective date of the motor vehicle liability policy, which date shall be the same as the effective date of the certificate, and shall designate by explicit description or by appropriate reference all motor vehicles covered thereby, unless the policy is issued to a person who is not the owner of a motor vehicle. [L 1949, c 393, pt of §1; RL 1955, §160-100; HRS §287-22; am L 1980, c 84, pt of §1]

" **[§287-22.1] Certificate of insurance as proof; mandatory, when.** Any person required to show proof of financial responsibility pursuant to section 287-20(a)(3) shall show proof by filing a certificate of insurance pursuant to section 287-22, or, if the person is a nonresident, section 287-23. [L 1985, c 195, §1]

" **§287-23 Certificate furnished by nonresident as proof.**
(a) The nonresident owner of a motor vehicle not permanently registered in the State may give proof of financial responsibility by filing with the administrator a written certificate or certificates of an insurance carrier authorized to transact business in the state in which the motor vehicle or motor vehicles described in the certificate is registered or if the nonresident does not own a motor vehicle, then in the state in which the insured resides, provided the certificate otherwise conforms with this chapter, and the administrator shall accept the same upon condition that the insurance carrier complies with the following provisions with respect to the policy so certified:

- (1) The insurance carrier shall execute a power of attorney authorizing the insurance commissioner to accept service on its behalf of notice of process in any action arising out of a motor vehicle action in the State;

(2) The insurance carrier shall agree in writing that such policies shall be deemed to conform with the laws of the State relating to the terms of motor vehicle liability policies issued herein.

(b) If any insurance carrier not authorized to transact business in the State, which has qualified to furnish proof of financial responsibility, defaults in any such undertakings or agreements, the administrator shall not thereafter accept as proof any certificate of the carrier whether theretofore filed or thereafter tendered as proof, so long as such default continues. [L 1949, c 393, pt of §1; RL 1955, §160-101; HRS §287-23; am L 1980, c 84, pt of §1]

" **§287-24 Motor vehicle liability policy defined.** A "motor vehicle liability policy" as used in this chapter means an owner's or a driver's policy of liability insurance, certified as provided in section 287-22 or section 287-23 as proof of financial responsibility, and issued, except as otherwise provided in section 287-23, by an insurance carrier duly authorized to transact business in the State, to or for the benefit of the person named therein as insured. [L 1949, c 393, pt of §1; RL 1955, §160-102; HRS §287-24; am L 1970, c 164, §3]

Case Notes

This section limits omnibus clause coverage of §287-25 to policies which have been certified. 52 H. 80, 470 P.2d 521.

" **§287-25 Owner's policy requirements.** An owner's policy of liability insurance:

- (1) Shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted;
- (2) Shall insure the person named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of the named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of the motor vehicle or motor vehicles within the State and such other places as the policy provides, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows: \$10,000 because of bodily injury to or death of one person in any one accident, and subject to such limit for one person, \$20,000 because of bodily injury to or death of two or more persons in any one accident, and \$5,000 because of injury to or

destruction of property of others in any one accident.
[L 1949, c 393, pt of §1; RL 1955, §160-103; am L
1963, c 98, §1; HRS §287-25]

Cross References

Policy coverage: motorcycles and motor scooters, see
§431:10G-301; motor vehicles (no-fault law), see §431:10C-301.

Case Notes

Initial permission rule, discussed. 901 F.2d 765.

Insurance omnibus clause protects insured, uninsured
permitted-driver, and injured. 50 H. 212, 437 P.2d 99.

Requirement as to coverage of persons using with permission,
construed. 50 H. 212, 437 P.2d 99.

Where terms of insurance policy are in conflict with statute,
latter takes precedence. 50 H. 212, 437 P.2d 99.

Omnibus clause coverage is limited by §287-24 to certified
policies. 52 H. 80, 470 P.2d 521.

Defendant was not a permissive user of insured vehicle and was
therefore not a "covered person" under insurance contract. 78
H. 249, 891 P.2d 1041.

" **§287-26 Driver's policy requirements.** A driver's policy
of liability insurance shall insure the person named as insured
therein against loss from the liability imposed upon the person
by law for damages arising out of the use by the person of any
motor vehicle not owned by the person, within the same
territorial limits and subject to the same limits of liability
as are set forth above with respect to an owner's policy of
liability insurance. [L 1949, c 393, pt of §1; RL 1955, §160-
104; HRS §287-26; am L 1970, c 164, §3; gen ch 1985]

" **§287-27 Contents of motor vehicle liability policy.** Every
motor vehicle liability policy shall state the name and address
of the named insured, the coverage afforded by the policy, the
premium charged therefor, the policy period, and the limits of
liability, and shall contain an agreement or be endorsed that
insurance is provided thereunder in accordance with the coverage
defined in this chapter as respects bodily injury and death or
property damage, or both, and is subject to all the provisions
of this chapter. [L 1949, c 393, pt of §1; RL 1955, §160-105;
HRS §287-27]

" **§287-28 Liabilities which need not be covered.** A motor
vehicle liability policy need not insure any liability under

chapter 386 relating to workers' compensation nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance, or repair of any such motor vehicle nor any liability for damage to property owned by, rented to, in charge of, or transported by the insured. [L 1949, c 393, pt of §1; RL 1955, §160-106; HRS §287-28; am L 1975, c 41, §1]

" **§287-29 General provisions governing liability policies.**

Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

- (1) The liability of the insurance carrier with respect to the insurance required by this chapter shall become absolute whenever injury or damage covered by the motor vehicle liability policy occurs; the policy may not be canceled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on the insured's behalf and no violation of the policy shall defeat or void the policy;
- (2) The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage;
- (3) The insurance carrier shall have the right to settle any claim covered by the policy, and if the settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in section 287-25(2);
- (4) The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with this chapter shall constitute the entire contract between the parties. [L 1949, c 393, pt of §1; RL 1955, §160-107; HRS §287-29; gen ch 1985]

Case Notes

It is not mandatory to obtain an automobile liability policy. 146 F. Supp. 729.

" **§287-30 Excess coverage permitted.** Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy and the excess or additional coverage shall not be

subject to this chapter. With respect to a policy which grants such excess or additional coverage the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this chapter. [L 1949, c 393, pt of §1; RL 1955, §160-108; HRS §287-30]

" **§287-31 Reimbursement of insurer; proration of insurance.** Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for this chapter.

Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance. [L 1949, c 393, pt of §1; RL 1955, §160-109; HRS §287-31]

" **§287-32 Combining policies and issuing binders to meet requirements.** The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements.

Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy. [L 1949, c 393, pt of §1; RL 1955, §160-110; HRS §287-32]

" **§287-33 Notice of cancellation or termination of certified policy.** When an insurance carrier has certified a motor vehicle liability policy under section 287-22 or a policy under section 287-23, the insurance so certified shall not be canceled or terminated until at least ten days after a notice of cancellation or termination of the insurance so certified is filed in the office of the administrator, except that such a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates. [L 1949, c 393, pt of §1; RL 1955, §160-111; HRS §287-33; am L 1980, c 84, pt of §1]

" **§287-34 Chapter not to affect other policies.** (a) This chapter shall not be held to apply to or affect policies of automobile insurance against liability which may now or hereafter be required by any other law of this State, and such policies, if they contain an agreement or are endorsed to conform to the requirements of this chapter, may be certified as proof of financial responsibility under this chapter.

(b) This chapter shall not be held to apply to or affect policies insuring solely the insured named in the policy against

liability resulting from the maintenance or use by persons in the insured's employ or on the insured's behalf of motor vehicles not owned by the insured. [L 1949, c 393, pt of §1; RL 1955, §160-112; HRS §287-34; gen ch 1985]

Cross References

No-fault law, see article 10C of chapter 431.

" **§287-35 Bond as proof.** (a) Proof of financial responsibility may be evidenced by the bond of a surety company duly authorized to transact business within the State, or a bond with at least two individual sureties each owning real estate within the State, and together having equities equal in value to at least twice the amount of the bond, which real estate shall be scheduled in the bond approved by the insurance commissioner, which bond shall be conditioned for payment of the amounts specified in section 294-10(a). The bond shall be filed with the administrator and shall not be cancelable except after ten days' written notice to the administrator. The bond shall constitute a lien in favor of the State upon the real estate so scheduled of any surety, which lien shall exist in favor of any holder of a final judgment against the person who has filed the bond, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use, or operation of a motor vehicle after the bond was filed upon the filing of notice to that effect and the filing of a certified copy of the final judgment in the office of the registrar of conveyances.

(b) If such a judgment, rendered against the principal on the bond is not satisfied within sixty days after it has become final, the judgment creditor may, for the judgment creditor's own use and benefit and at the judgment creditor's sole expense, bring an action or actions in the name of the State against the company or persons executing the bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed the bond, such action to conform as near as may be with the procedure for the foreclosure of mortgages. [L 1949, c 393, pt of §1; RL 1955, §160-113; HRS §287-35; am L 1980, c 84, pt of §1; gen ch 1985; am L 1986, c 339, §33]

Note

Section 294-10(a) referred to in text is repealed. For present provision, see §431:10C-301.

" **§287-36 Money or bonds as proof.** (a) Proof of financial responsibility may be evidenced by the certificate of the administrator that the person named therein has deposited with the administrator \$25,000 in cash or bonds. The administrator shall not accept any such deposit and issue a certificate therefor unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

(b) The deposit shall be held by the administrator to satisfy, in accordance with this chapter any execution on a judgment issued against such person making the deposit, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use, or operation of a motor vehicle after the deposit was made. Money or bonds so deposited shall not be subject to attachment or execution unless the attachment or execution arises out of a suit for damages as aforesaid. [L 1949, c 393, pt of §1; RL 1955, §160-114; am L Sp 1959 2d, c 1, §14; am L 1963, c 98, §1 and c 114, §1; HRS §287-36; am L 1980, c 84, pt of §1; gen ch 1985; am L 1992, c 120, §1; am L 1993, c 6, §10]

" **§287-37 Owner may give proof for others.** Whenever any person required to give proof of financial responsibility hereunder is or later becomes a driver in the employ of any owner, or is or later becomes a member of the immediate family or household of the owner, the administrator shall accept proof given by the owner in lieu of proof by the other person to permit the other person to operate a motor vehicle for which the owner has given proof as herein provided. The administrator shall designate the restrictions imposed by this section on the face of such person's license. [L 1949, c 393, pt of §1; RL 1955, §160-115; HRS §287-37; am L 1970, c 164, §3; am L 1980, c 84, pt of §1]

" **§287-38 Substitution of proof.** The administrator shall consent to the cancellation of any bond or certificate of insurance or the administrator shall return any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter. [L 1949, c 393, pt of §1; RL 1955, §160-116; am L Sp 1959 2d, c 1, §14; am L 1963, c

114, §1; HRS §287-38; am L 1980, c 84, pt of §1; am L 1992, c 120, §2]

" **§287-39 Other proof may be required.** Whenever any proof of financial responsibility filed under this chapter no longer fulfills the purposes for which required, the administrator shall, for the purpose of this chapter, require other proof as required by this chapter and shall suspend the license and registration or the nonresident's operating privilege pending the filing of such other proof. [L 1949, c 393, pt of §1; RL 1955, §160-117; HRS §287-39; am L 1980, c 84, pt of §1]

" **§287-40 Duration of proof; when proof may be canceled or returned.** The administrator shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the administrator shall return to the person entitled thereto any money or bonds deposited pursuant to this chapter as proof of financial responsibility, or the administrator shall waive the requirement of filing proof, in any of the following events:

- (1) At any time after three years from the date the proof was required when, during the three-year period preceding the request, the administrator has not received record of a conviction which would require or permit the suspension or revocation of the license or nonresident's operating privilege of the person by or for whom the proof was furnished;
- (2) In the event of the death of the person on whose behalf the proof was filed or the permanent incapacity of the person to operate a motor vehicle;
- (3) In the event the person who has given proof surrenders the person's license to the administrator;

Provided, that the administrator shall not consent to the cancellation of any bond or the return of any money or bonds in the event any action for damages upon a liability covered by the proof is then pending or any judgment upon any such liability is then unsatisfied, or in the event the person who has filed the bond or deposited the money or bonds, has, within one year immediately preceding the request been involved as a driver or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that the applicant has been released from all of the applicant's liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the administrator.

Whenever any person whose proof has been canceled or returned under paragraph (3) of this section applies for a license or registration within a period of three years from the date proof was originally required, any such application shall be refused unless the applicant reestablishes the proof for the remainder of the three-year period. [L 1949, c 393, pt of §1; RL 1955, §160-118; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §287-40; am L 1970, c 164, §3; am L 1980, c 84, pt of §1; gen ch 1985; am L 1992, c 120, §3; am L 1993, c 6, §11]

" **§287-41 Surrender of license on violation.** Any person whose license has been suspended as herein provided, or whose policy of insurance or bond, when required under this chapter, has been canceled or terminated, or who neglects to furnish other proof upon request of the administrator shall immediately surrender the person's license to the administrator. If any person fails to surrender to the administrator the license as provided herein, the administrator shall forthwith direct any police or other peace officer to secure possession thereof and return the same to the administrator. [L 1949, c 393, pt of §1; RL 1955, §160-119; HRS §287-41; am L 1980, c 84, pt of §1; gen ch 1985]

" **§287-42 Self-insurers.** (a) Any person in whose name more than twenty-five motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the administrator as provided in subsection (b) of this section.

(b) The administrator may, in the administrator's discretion, upon the application of such a person, issue a certificate of self-insurance when the administrator is satisfied that the person is possessed and will continue to be possessed of ability to pay judgments obtained against such person.

(c) Upon not less than five days' notice and a hearing pursuant to the notice, the administrator may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay any judgment within thirty days after the judgment has become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance. [L 1949, c 393, pt of §1; RL 1955, §160-120; HRS §287-42; am L 1980, c 84, pt of §1; gen ch 1985]

" **§287-43 Assigned risk plans.** The insurance commissioner may approve any reasonable plan for the equitable apportionment among insurance companies authorized to issue automobile liability policies in the State of applicants for such policies

and for motor vehicle liability policies who are in good faith entitled to but are unable to procure such policies through ordinary methods. When any such plan has been approved after consultation with the insurance companies all insurance companies authorized to do business in the State shall subscribe thereto and participate therein. Any applicant for any such policy, any policy insured under any such plan, and any insurance company affected may appeal to the insurance commissioner from any ruling or decision of the manager or committee designated under the plan to operate the plan. Any person aggrieved by any order or act of the insurance commissioner may file an appeal therefrom either in the office of the clerk of the circuit court of the first circuit, or if the appellant is a resident of any other circuit, either in the first circuit or in the circuit in which the appellant resides within thirty days after the effective date of the order or act in the same manner as is provided in section 287-2. The insurance commissioner shall transmit to the clerk of the court the papers referred to in section 287-2 and the attorney general shall render assistance to the insurance commissioner upon the insurance commissioner's request. [L 1949, c 393, pt of §1; RL 1955, §160-121; HRS §287-43; gen ch 1985]

" **§287-44 Penalties.** (a) Any person convicted of a violation of section 287-41 shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Any person convicted of a violation of any other section in this chapter shall be fined not more than \$1,000.

(b) The administrator shall have the right to suspend the license of any person failing to make any report required hereunder until the report has been filed and for such further period not to exceed thirty days as the administrator may fix.

(c) Any person who gives information required in a report or otherwise as provided for in section 287-4, knowing or having reason to believe that the information is false, or who forges or, without authority, signs any evidence of proof of financial responsibility, or who files or offers for filing any such evidence of proof knowing or having reason to believe that it is forged or signed without authority, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(d) Any person whose license has been suspended or revoked under this chapter and who during the suspension or revocation drives any motor vehicle upon any highway or knowingly permits any motor vehicle to be operated by another upon any highway except as permitted under this chapter shall be fined not more than \$500 or imprisoned not more than six months, or both.

(e) Any person failing to surrender the person's license as required by section 287-41 shall be fined not more than \$500 or imprisoned not more than six months, or both. [L 1949, c 393, pt of §1; RL 1955, §160-122; HRS §287-44; am L 1980, c 84, pt of §1; gen ch 1985; am L 1993, c 214, §10]

" **§287-45 Exceptions.** This chapter, except for section 287-20 shall not apply with respect to any motor vehicle owned by the United States, this State, or any political subdivision thereof; nor, except for sections 287-4 and 287-37, with respect to any motor vehicle which is subject to the requirements of chapter 288. [L 1949, c 393, pt of §1; am L 1951, c 184, §1; RL 1955, §160-123; HRS §287-45]

" **§287-46 Chapter supplemental to traffic ordinances and motor vehicle laws.** This chapter shall in no respect be considered as a repeal of any ordinance relating to traffic or motor vehicles, except as herein provided, or the state law relating thereto, but shall be construed as supplemental thereto. [L 1949, c 393, pt of §1; RL 1955, §160-124; HRS §287-46]

" **§287-47 Other relief available.** Nothing in this chapter shall be construed as preventing the plaintiff in any action from obtaining relief upon process provided by any provision of law. [L 1949, c 393, pt of §1; RL 1955, §160-125; HRS §287-47]

" **§287-48 Application of chapter to suspensions and revocations prior to January 1, 1950.** Notwithstanding any provision herein to the contrary, the administrators of the several counties may accept the prescribed proof of financial responsibility from any person whose license has been suspended or revoked on account of a conviction based on an offense occurring prior to January 1, 1950, and who now applies for the issuance of a license. Upon acceptance of such proof, the duration, cancellation, or return thereof shall be governed by section 287-40.

The administrators may also waive the requirement of furnishing such proof if the person mentioned in the preceding paragraph, for a period of three years prior to the person's application for a license, has not been convicted of any additional offense or offenses which would require or permit the suspension or revocation of a license. [L 1949, c 393, pt of §2; am L 1953, c 81, §1; RL 1955, §160-126; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §287-48; am L 1980, c 84, pt of §1; gen ch 1985; am L 1992, c 120, §4]