

JAN 21 2022

A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE VALUATION.

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

1 SECTION 1. The legislature finds that the methodology that
2 insurance companies use to assign value to motor vehicles does
3 not accurately reflect the value of electric vehicles. Mileage
4 tends to be a primary factor in valuations, and many insurers do
5 not include any assessment of an electric vehicle's primary
6 battery, known as the traction battery pack, in their vehicle
7 valuations. With electric vehicles, current battery capacity
8 should have much more value than mileage. Because electric
9 vehicles do not have a transmission, motor oil, or an internal
10 combustion engine, including a head gasket or timing belt, wear
11 and tear issues with electric vehicles revolve nearly entirely
12 around battery condition. If an older electric vehicle has a
13 new battery installed, that value should be considered when
14 assessing insurance claims.

15 The legislature further finds that the comparable value of
16 similar vehicles on other islands does not account for the price



1 of shipping and traveling to view and test drive a vehicle on a
2 different island.

3 The purpose of this Act is to update the criteria that
4 insurance companies use to assign value to motor vehicles when
5 examining or processing claims.

6 SECTION 2. Section 431:10C-310, Hawaii Revised Statutes,
7 is amended to read as follows:

8 **"§431:10C-310 Total loss motor vehicle claims:**

9 **replacement.** When an insurer elects under section 431:10C-309
10 to offer the insured a replacement vehicle as defined in section
11 431:10C-103, the insurer shall comply with the following
12 requirements:

13 (1) The insurer shall consider the following criteria when
14 identifying a replacement vehicle:

15 (A) Availability of the replacement vehicle on the
16 same island as the total loss vehicle; provided
17 that if a replacement vehicle is not available on
18 the same island as the total loss vehicle, the
19 insurer shall include in its offer the costs of
20 shipping the replacement vehicle and the



1 insured's travel for pre-purchase inspection of
2 the replacement vehicle; and

3 (B) If the total loss vehicle is an electric vehicle,
4 the remaining life and capacity of the vehicle's
5 primary battery, known as the traction battery
6 pack, which shall have equal or greater weight
7 than mileage on the vehicle;

8 ~~[(1)]~~ (2) The claim file, which is maintained by the
9 insurer, shall contain a description of the
10 replacement vehicle, including the vehicle
11 identification number and a schedule of options;

12 ~~[(2)]~~ (3) Replacement vehicles of the current model plus
13 the three previous model years shall be purchased
14 through motor vehicle dealers licensed under chapter
15 437. This requirement may be waived in writing by the
16 insured. The signed waiver shall be maintained in the
17 insurer's claim file;

18 ~~[(3)]~~ (4) If the insurer offers a replacement vehicle to
19 the insured and the insured rejects the offer and
20 elects a cash settlement instead of the replacement
21 vehicle, the insurer need pay only the amount it would



1 have otherwise paid on the replacement vehicle[-],
2 including the costs of shipping the replacement
3 vehicle and the insured's travel for pre-purchase
4 inspection of the replacement vehicle if the
5 replacement vehicle offered is not on the same island
6 as the total loss vehicle. Evidence of the insured's
7 rejection shall be apparent in the file; and
8 [+4+] (5) If the insurer offers a replacement vehicle to
9 the insured and the insured rejects the offer and
10 wants another vehicle substantially similar in value,
11 the insurer need pay only the amount it would have
12 otherwise paid on the replacement vehicle[-],
13 including the costs of shipping the replacement
14 vehicle and the insured's travel for pre-purchase
15 inspection of the replacement vehicle if the
16 replacement vehicle offered is not on the same island
17 as the total loss vehicle. The insurer shall maintain
18 in the claim file the insured's written waiver that
19 the acceptance of another vehicle is of the insured's
20 own free will and choice."



SECTION 3. Section 431:10C-311, Hawaii Revised Statutes,
is amended by amending subsection (a) to read as follows:

"(a) When an insurer elects under section 431:10C-309 to
offer the insured a cash settlement for a total loss motor
vehicle claim, the following shall apply:

(1) The cash settlement shall be based upon the retail
value of the motor vehicle as determined from a source
or sources which are reflective of the market value of
the total loss vehicle~~(-)~~;

(2) The use of dealer quotations (when the vehicle is
available at the quoting dealer's lot) and newspaper
advertisements may be used in lieu of the source
generally used by the insurer, if the claim file
reflects that the vehicle was not quoted in the source
generally used by the insurer or the source was not
reflective of the market value. Dealer quotations and
newspaper advertisements shall not be considered sole
sources reflective of market values. When dealer
quotations are used, the vehicle identification number
shall be contained in the insured's claim file;



1 (3) Estimates from at least three licensed dealers may be
2 used when vehicles are not quoted in the source
3 usually used by the insurer and are not available for
4 replacement. Dealer estimates shall take into
5 consideration the condition of the insured vehicle
6 prior to the loss; ~~and~~

7 (4) Regardless of the source used to determine the market
8 value of the total loss vehicle, the value shall
9 include the following:

10 (A) Availability on the same island as the total loss
11 vehicle; provided that if the source is not for a
12 vehicle on the same island as the total loss
13 vehicle, the insurer shall include the costs of
14 shipping the vehicle and the insured's travel for
15 pre-purchase inspection of the vehicle in its
16 cash settlement offer; and

17 (B) If the total loss vehicle is an electric vehicle,
18 the remaining battery life and capacity of the
19 vehicle's primary battery, known as the traction
20 battery pack, which shall have equal or greater
21 weight than mileage on the vehicle; and



[~~(4)~~] (5) The documentation of the determination of the total loss vehicle market value shall be maintained in the insurer's claim file."

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

INTRODUCED BY:

Ben



S.B. NO. 2541

Report Title:

Motor Vehicles; Electric Vehicles; Valuation; Motor Vehicle Insurance

Description:

When identifying a replacement vehicle or cash settlement value, requires an insurer to take into consideration costs of shipping the vehicle and the insured's travel for pre-purchase inspection of the replacement vehicle, if not on the same island, and, if the insured vehicle is an electric vehicle, the remaining battery life and capacity of the vehicle's primary battery, known as the traction battery pack, which shall have equal or greater weight than mileage on the vehicle.

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