
A BILL FOR AN ACT

RELATING TO MOPED INSURANCE.

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

1 SECTION 1. The purpose of this Act is to require that
2 persons operating mopeds in the State carry an insurance policy.

3 SECTION 2. Chapter 431, Article 10G, Hawaii Revised
4 Statutes, is amended by amending its title to read as follows:

5 **"ARTICLE 10G**

6 **MOPED, MOTORCYCLE, AND MOTOR SCOOTER INSURANCE"**

7 SECTION 3. Section 431:10G-101, Hawaii Revised Statutes,
8 is amended as follows:

9 1. By adding two new definitions to be appropriately
10 inserted and to read:

11 "Moped" has the same meaning as defined in section 286-2.

12 "Moped accident" means an accident arising out of the
13 operation, maintenance, or use of a moped, but not involving a
14 motor vehicle."

15 2. By amending the definition of "accidental harm" to
16 read:



1 ""Accidental harm" means bodily injury, death, sickness, or
2 disease caused by a moped accident, motorcycle accident, or
3 motor scooter accident to a person."

4 3. By amending the definition of "owner" to read:

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

16 SECTION 4. Section 431:10G-102, Hawaii Revised Statutes,
17 is amended to read as follows:

18 "**§431:10G-102 Conditions of operation and registration of**
19 **mopeds, motorcycles, and motor scooters.** No person shall drive
20 a moped, motorcycle, or motor scooter upon any public street,
21 road, or highway of this State at any time unless [~~such~~] the



1 moped, motorcycle, or motor scooter is insured at all times
2 under a liability policy as provided in section 431:10G-301;
3 provided that this article shall not apply to any [~~antique~~]
4 motorcycle or motor scooter that is an antique motor vehicle as
5 defined in section 249-1."

6 SECTION 5. Section 431:10G-103, Hawaii Revised Statutes,
7 is amended to read as follows:

8 "**§431:10G-103 [~~Motorcycle~~ Moped, motorcycle, or motor**
9 **scooter self-insurance.** The moped, motorcycle, or motor scooter
10 insurance required by section 431:10G-102 may be satisfied by
11 any owner of a moped, motorcycle, or motor scooter if:

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

20 (2) The commissioner is satisfied that in case of injury,
21 death, or property damage, any claimant would have the



1 same rights against such owner as the claimant would
2 have had if a policy meeting the requirements of
3 section 431:10G-301 had been applicable to [~~such~~] the
4 moped, motorcycle, or motor scooter."

5 SECTION 6. Section 431:10G-104, Hawaii Revised Statutes,
6 is amended by amending subsection (a) to read as follows:

7 "(a) Any person seeking to obtain the liability coverage
8 required by this part after June 7, 1989, shall first:

9 (1) Have obtained a valid moped, motorcycle, or motor
10 scooter license; or

11 (2) Have obtained a valid moped, motorcycle, or motor
12 scooter learner's permit and, for a person operating a
13 motorcycle or motor scooter, have taken and passed a
14 motorcycle education course approved by the department
15 of transportation."

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

18 "**§431:10G-105 Tort liability.** (a) With respect to
19 accidental harm incurred in or arising out of a moped accident,
20 motorcycle accident, or motor scooter accident, tort liability
21 is not abolished.



1 (b) Any owner or operator of a moped, motorcycle, or motor
2 scooter involved in a motor vehicle accident as defined in
3 section 431:10C-103 and who incurs accidental harm as defined in
4 section 431:10C-103, including such person's representative or
5 legal guardian, shall have a cause of action in tort as provided
6 in section 431:10C-306."

7 SECTION 8. Section 431:10G-106, Hawaii Revised Statutes,
8 is amended to read as follows:

9 "**§431:10G-106 Verification of insurance.** Every insurer
10 shall issue to each of its insureds a paper or electronic proof
11 of insurance card for each moped, motorcycle, or motor scooter
12 for which a liability policy under this article is written. The
13 electronic proof of insurance card may be accessed directly
14 through the licensed insurer's website, application, or
15 database. The proof of insurance card shall show the following:

- 16 (1) Name, make, year, and factory or serial number of the
17 moped, motorcycle, or motor scooter; provided that
18 insurers of five or more mopeds, motorcycles, or motor
19 scooters that are under common registered ownership
20 and used in the regular course of business shall not
21 be required to indicate the name, make, year, and the



- 1 factory or serial number of each moped, motorcycle, or
- 2 motor scooter;
- 3 (2) Policy number;
- 4 (3) Names of the insured and the insurer; and
- 5 (4) Effective dates of coverage including the expiration
- 6 date.

7 The proof of insurance card shall be carried on, or accessible
 8 on a mobile electronic device, as defined in section 291C-137,
 9 by the person operating the insured moped, motorcycle, or motor
 10 scooter at all times and shall be exhibited to a law enforcement
 11 officer upon demand."

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

14 "**§431:10G-108 Penalties.** Any person who violates this
 15 article shall be subject to a citation by the police and shall
 16 be subject to a nonsuspendable fine of [~~not~~] no less than \$100
 17 [~~not~~] and no more than \$1,000, thirty days imprisonment, a one
 18 year driver's license suspension, or any combination thereof,
 19 for each violation.

20 Any person cited under this section shall have an
 21 opportunity to present a good faith defense, including but not



1 limited to lack of knowledge or proof of insurance. The general
2 penalty provision of this section shall not apply to:

3 (1) Any operator of a moped, motorcycle, or motor scooter
4 owned by another person if the operator's own
5 insurance covers such driving;

6 (2) Any operator of a moped, motorcycle, or motor scooter
7 owned by that person's employer during the normal
8 scope of that person's employment; or

9 (3) Any operator of a borrowed moped, motorcycle, or motor
10 scooter if the operator holds a reasonable belief that
11 the subject vehicle is insured."

12 SECTION 10. Section 431:10G-201, Hawaii Revised Statutes,
13 is amended by amending its title and subsection (a) to read as
14 follows:

15 "**§431:10G-201 Making of moped, motorcycle, and motor**
16 **scooter insurance rates.** (a) All premium rates for moped,
17 motorcycle, and motor scooter insurance shall be made in
18 accordance with the following provisions:

19 (1) Rates shall not be excessive, inadequate, or unfairly
20 discriminatory;

21 (2) Due consideration shall be given to:



- 1 (A) Past and prospective loss experience within and
2 outside this State, catastrophe hazards, if any,
3 reasonable margin for profit, and contingencies,
4 dividends, savings, or unabsorbed premium
5 deposits allowed or returned by insurers to their
6 policyholders, members, or subscribers;
- 7 (B) Past and prospective expenses both country-wide
8 and those specially applicable to this State in
9 the sale and administration of moped,
10 [~~motoreycles~~] motorcycle, and motor [~~scooters~~]
11 scooter insurance; and
- 12 (C) Investment income from reserves, unearned
13 insurance premiums, and other unearned proceeds
14 received on account of moped, motorcycle, and
15 motor scooter insurance sold, and all other
16 factors that may be deemed relevant, if they are
17 established to have a probable effect upon
18 losses, expense, or rates, [~~such as~~] including
19 but not limited to types of vehicles,
20 occupations, and involvement in past accidents;



1 (3) The systems of expense provisions included in the
2 rates for use by any insurer or group of insurers may
3 differ from those of other insurers or groups of
4 insurers to reflect the requirements of the operating
5 methods of any insurer or group with respect to any
6 class of insurance, or with respect to any subdivision
7 or combination thereof for which subdivision or
8 combination separate expense provisions are
9 applicable; and

10 (4) Risks may be grouped by classifications for the
11 establishing of rates and minimum premiums.
12 Classification rates may be modified to produce rates
13 for individual risks in accordance with rating plans
14 which establish standards for measuring variations in
15 hazards or expense provisions, or both. The standards
16 may measure any differences among risks that can be
17 demonstrated to have a probable effect upon losses or
18 expenses."

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



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

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

9 "**§431:10G-206 Rate administration.** Except as otherwise
10 provided in this article, the commissioner shall implement and
11 evaluate moped, motorcycle, and motor scooter insurance rates in
12 compliance with article 14."

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

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

16 "**§431:10G-301 Required moped, motorcycle, and motor**
17 **scooter policy coverage.** (a) An insurance policy covering a
18 moped, motorcycle, or motor scooter shall provide insurance in
19 the following amounts to pay, on behalf of the owner or any
20 operator of the insured moped, motorcycle, or motor scooter,
21 sums that the owner or any operator may legally be obligated to



1 pay for injury, death, or damage to the property of others,
2 except property owned by, being transported by, or in charge of
3 the insured that arise out of the ownership, operation,
4 maintenance, or use of the moped, motorcycle, or motor scooter:

5 (1) Liability coverage of [~~not~~] no less than \$20,000 per
6 person, with an aggregate limit of \$40,000 per
7 accident, for all damages arising out of accidental
8 harm sustained as a result of any one accident; and

9 (2) Liability coverage of [~~not~~] no less than \$10,000 for
10 all damages arising out of injury to or destruction of
11 property, including mopeds, motorcycles, or motor
12 scooters and including the loss of use thereof, but
13 not including property owned by, being transported by,
14 or in the charge of the insured, as a result of any
15 one accident."

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

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



1 policy, unless expressly provided for in the motor vehicle
2 policy."

3 SECTION 14. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 15. This Act shall take effect on July 1, 3000.



Report Title:

Department of Commerce and Consumer Affairs; Required Insurance;
Mopeds

Description:

Requires that moped operators carry an insurance policy by incorporating mopeds into the insurance laws governing motorcycles and motor scooters, including with respect to provisions concerning required licensure, the relationship with tort law, proof of insurance card, penalties, rate regulation, and minimum coverage levels. Makes conforming amendments. Effective 7/1/3000. (SD1)

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

