

**ACT 20**

H.B. NO. 3151

A Bill for an Act Relating to Motor Vehicle Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431:10C-117, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) (1) Any person subject to this article in the capacity of the operator, owner, or registrant of a motor vehicle in this State, or registered in this State, who violates any applicable provision of this article, shall be subject to citation for the violation by any county police department in a form and manner approved by the violations bureau of the district court of the first circuit.
- (2) Notwithstanding any provision of the Hawaii Penal Code:
- (A) Each violation shall be deemed a separate offense and shall be subject to a fine of not less than \$100 nor more than \$5,000 which shall not be suspended except as provided in subparagraph (B);
  - (B) If the person is convicted of not having had a no-fault policy in effect at the time the citation was issued, the fine shall be \$500 for the first offense and a minimum of \$1,500 for each subsequent offense[;] that occurs within a five-year period from any prior conviction; provided that the judge [shall]:
    - (i) Shall have the discretion to suspend the fine for the first offense; provided further that upon the defendant’s request, the judge may grant community service in lieu of the fine, of not less than [75] seventy-five hours and not more than [100] one hundred hours for the first offense, and not less than [200] two hundred hours nor more than [275] two hundred seventy-five hours for the second offense; and [provided further that the judge may]
    - (ii) May grant community service in lieu of the fine for subsequent offenses at the judge’s discretion.
- (3) In addition to the fine in [[ ]paragraph (2)[ ]], [if any person operates a motor vehicle without a valid no-fault policy in effect insuring the driver or registered owner, or both,] for the first conviction within a five-year period for the offense of driving without no-fault policy, the court shall either:
- (A) suspend the driver’s license of the driver [and] or of the registered owner [shall be suspended] for three months, provided that they shall not be required to obtain proof of financial responsibility pursuant to section 287-20, or
  - (B) [they shall be required] require the driver or the registered owner to [maintain<sup>1</sup> proof of financial responsibility pursuant to section [287-21(2), (3), or (4) and] keep a nonrefundable no-fault insurance policy in force for six months[;]. [provided that if]
- In addition to the fine in paragraph (2), if the violation is a subsequent offense of driving without a valid no-fault policy, within a five-year period of any prior conviction, the driver’s licenses of the driver [and] or the registered owner shall be suspended for one year and the driver or the registered owner shall be required to maintain proof of financial responsibility pursuant to section 287-20[; and provided further that any]
- (4) Any person cited under this section shall have an opportunity to present a good faith defense, including but not limited to lack of knowledge or proof of insurance. The general penalty provision of this section shall not apply to:
- (A) Any operator of a motor vehicle owned by another person if the operator’s own insurance covers such driving; or
  - (B) Any operator of a motor vehicle owned by that person’s employer during the normal scope of that person’s employment; or

- (C) Any operator of a borrowed motor vehicle if the operator holds a reasonable belief that the subject vehicle is insured.
- [(4)] (5) In the case of multiple [violations] convictions for driving without a valid no-fault policy within a five-year period from any prior conviction, the court, in addition to any other penalty, shall impose the following penalties:
- (A) Imprisonment of not more than thirty days;
  - (B) Suspension or revocation of the motor vehicle registration plates of the vehicle involved;
  - (C) Impoundment, or impoundment and sale, of the motor vehicle for the costs of storage and other charges incident to seizure of the vehicle, or any other cost involved pursuant to section 431:10C-301; or
  - (D) Any combination of those penalties.”

SECTION 2. Section 287-20,<sup>1</sup> Hawaii Revised Statutes, is amended to read as follows:

“(a) Whenever a driver’s license has been suspended or revoked:

- (1) Pursuant to part XIV of chapter 286 except as provided in section 291-4(f), [or]
- (2) Upon a conviction of any offense pursuant to law[.]; or[.]
- (3) In the case of minors, [suspended or revoked] 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 any conviction of a moving violation, [or] any administrative license suspension pursuant to chapter 291A, or the first conviction within a five-year period for driving without a valid no-fault policy.

(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 [section] subsection, under the laws of the State or ordinances of any political subdivision, 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 shall nevertheless after the expiration of thirty days from the date of conviction or adjudication suspend the license and shall keep the same 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, 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], except when a person’s license has been suspended or revoked for the first conviction of driving without a no-fault insurance policy;
- (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 \$1,000 and there are reasonable grounds for the administrator to believe that the defendant is at fault[.], and
- (3) Driving without a valid no-fault policy if the conviction occurs within a five-year period from any prior conviction.

[(b)] (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 subsection (a)] 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.''

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 22, 1996.)

**Note**

1. So in original.