

ACT 289

S.B. NO. 2162

A Bill for an Act Relating to Foster Children.

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

SECTION 1. Chapter 587, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§587- Motor vehicle insurance.** The parents of a child under foster care who has obtained a driver’s license shall pay the costs of the child’s motor vehicle insurance, unless the court determines the parents to be financially unable to pay the costs, in which case the child’s insurance costs shall be paid pursuant to sections 431:10C-407 and 431:10C-410.”

SECTION 2. Section 286-112, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The application of any person under the age of eighteen years for an instruction permit, provisional license, or driver’s license shall be signed and verified before a person authorized to administer oaths by the appropriate one of the following:

- (1) If both the father and mother of the applicant have custody of the applicant, by both the father and mother of the applicant;

- (2) If only one parent has custody of the applicant, by the custodial parent;
- (3) If neither parent has custody of the applicant, and the applicant has a custodial guardian or has custodial guardians, by the custodial guardian or by all the custodial guardians; provided that the director of human services, or the director's designee, shall sign and verify the application of any applicant who is under foster care; provided further that the department of human services shall not have any liability in the event that the foster child is involved in a motor vehicle accident or a lawsuit arising as a result of the foster child's driving; or
- (4) If neither parent has custody of the applicant, and the applicant has no custodial guardian, by an employer of the applicant or by any responsible person who is willing to assume the obligation imposed under this part upon a person signing the application of a minor.”

SECTION 3. Section 346-17.4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Eligible former foster youths shall be eligible for higher education board allowances after reaching the age of majority and the higher education board payments for that former foster youth shall be paid to an accredited institution of higher learning, another intermediary contracted by the department, the former foster youth, or to the former foster youth's former foster parents, as appropriate[.]; provided that:

- (1) The former foster youth is twenty-one years old or younger; and
- (2) Within one school year after high school completion, the former foster youth is attending or has been accepted to attend an accredited institution of higher learning on a full-time basis, or on a part-time basis for the first academic year, if approved by the director upon such terms and conditions as the director deems appropriate.”

SECTION 4. Section 431:10C-407, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The plan shall provide all personal injury protection benefits and services and bodily injury and property damage liability coverages to the limits and coverages specified in this article for all classes of persons, motor vehicles, and motor vehicle uses specified in this part upon the payment of premiums as provided in subpart C, as follows:

- (1) The plan shall provide personal injury protection benefits and policies for each of the following classes, and each class shall be able to secure a personal injury protection and bodily injury and property damage liability policy through the plan:
 - (A) All motor vehicles owned by licensed assigned risk drivers as the commissioner, by rules, shall define. The commissioner shall regulate the class in accordance with the general practice of the industry, the applicable results, if any, of the commissioner's examination of the motor vehicle insurers' business records and experience, and any applicable and scientifically credible governmental or academic studies of the multi-accident or high-risk motor vehicle driver;
 - (B) All motor vehicles owned by licensed drivers convicted within the thirty-six months immediately preceding the date of application, in any jurisdiction of any one or more of the offenses of, or of the offenses cognate to:
 - (i) Heedless and careless driving;

- (ii) Driving while license suspended or revoked;
 - (iii) Leaving the scene of an accident;
 - (iv) Manslaughter, if resulting from the operation of a motor vehicle;
 - (v) Operating a vehicle under the influence of an intoxicant as provided in section 291E-61; or
 - (vi) Driving under the influence of an intoxicating liquor as provided in section 291-4 or any drug as provided in section 291-7, as those sections were in effect on or before December 31, 2001;
- (C) All commercial uses, first class, defined as any commercial use engaged in the transport of passengers for hire or gratuity;
- (D) All commercial uses, second class, defined as any commercial, business, or institutional use other than the transport of passengers as described in subparagraph (C) or the exclusive use of a vehicle for domestic-household-familial purposes; and
- (E) All other motor vehicles, not classified under subparagraph (A), (B), (C), or (D), owned by licensed drivers who are unable to obtain motor vehicle insurance policies and optional additional insurance through ordinary methods;
- (2) The plan shall provide personal injury protection benefits and bodily injury and property damage policies for all classes of persons, motor vehicles, and motor vehicle uses, at the premiums specified under subpart C, at the option of the owners, for the following classes, which the commissioner, by rules, shall further define and regulate:
- (A) All licensed drivers, or unlicensed permanently disabled individuals unable to operate their motor vehicles, who are receiving public assistance benefits consisting of direct cash payments, or who received public assistance benefits in the form of medical services prior to July 1, 1994, and are still receiving the benefits, through the department of human services, or benefits from the Supplemental Security Income program under the Social Security Administration; provided that the licensed drivers, or unlicensed permanently disabled individuals unable to operate their motor vehicles, are the sole registered owners of the motor vehicles to be insured; provided further that not more than one vehicle per public assistance unit shall be insured under this part, unless extra vehicles are approved by the department of human services as being necessary for medical or employment purposes; provided further that the motor vehicle to be insured shall be used strictly for personal purposes, and not for commercial purposes; [and]
- (B) Any licensed physically handicapped driver, including drivers with any auditory limitation[-]; and
- (C) Any licensed driver who is a minor under foster care and whose parents are unable to pay for the minor's motor vehicle insurance as provided in section 587- .

Each category of driver/owner under subparagraphs (A) [and], (B), and (C) may secure motor vehicle insurance coverage through the plan at the individual's option; provided any previous motor vehicle insurance policy has expired or has been canceled. Any person becoming eligible for plan coverage under subparagraph (A) shall first exhaust all paid coverage under any motor vehicle insurance policy then in force before becoming eligible for plan coverage.

Any person eligible or becoming eligible under rules adopted by the commissioner under subparagraph (B)[,] or (C) may at any time elect coverage under the plan and terminate any prior private insurer's coverage.

A certificate shall be issued by the department of human services indicating that the person is a bona fide public assistance recipient as defined in subparagraph (A). The certificate shall be deemed a policy for the purposes of this chapter upon the issuance of a valid motor vehicle insurance identification card pursuant to section 431:10C-107; and

- (3) Under the joint underwriting plan, the required motor vehicle policy coverages as provided in section 431:10C-301 shall be offered by every insurer to each eligible applicant assigned by the bureau. In addition, uninsured motorist and underinsured motorist coverages shall be offered in conformance with section 431:10C-301, and optional additional coverages shall be offered in conformance with section 431:10C-302, for each class except the class defined in paragraph (2)(A), as the commissioner, by rules, shall provide."

SECTION 5. Section 431:10C-410, Hawaii Revised Statutes, is amended to read as follows:

"§431:10C-410 Schedules. The commissioner shall:

- (1) Set rate schedules periodically, but not less frequently than annually, for all classes in accordance with this part and the criteria in paragraph (3), so that the total premium income, from all plan motor vehicle insurance, when combined with the investment income, shall annually fund the costs of all joint underwriting plan classes, the joint underwriting assigned claims plan, and the administration of the plans;
- (2) Prior to setting rates in accordance with paragraph (1), hold a public hearing on the proposed rates to afford all interested persons an opportunity to be heard. Notice shall be published and the hearing shall be held in accordance with chapter 91;
- (3) Establish rates for the following classes within the following restrictions:
 - (A) For the licensed public assistance driver, as defined in section 431:10C-407(b)(2)(A), or the licensed foster care driver, as defined in section 431:10C-407(b)(2)(C), no premium shall be assessed for the mandatory minimum personal injury protection, bodily injury, or property damage coverages; and all policies shall conform to section 431:10C-407(b)(2); and
 - (B) For the licensed physically handicapped driver, including drivers with any auditory limitation, defined in section 431:10C-407, no rate shall be set higher than that assessed a comparable driver without limitation, except that a higher rate may be surcharged under any applicable standard conforming with section 431:10C-409(3); and
- (4) Set various systems and schedules of rates based upon the risks involved, the experience with various exposures, uses, and drivers, and may include the establishment of surcharges for specific risks, drivers, and uses for each of the enumerated classes except the classes limited under paragraph (3)."

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 7. This Act shall take effect July 1, 2006.

(Approved July 7, 2006.)

Note

1. Edited pursuant to HRS §23G-16.5.