

ACT 109

H.B. NO. 2049

A Bill for an Act Relating to Statutory Revision: Amending or Repealing Various Provisions of the Hawaii Revised Statutes or the Session Laws of Hawaii For the Purposes of Correcting Errors and References, Clarifying Language, or Deleting Obsolete or Unnecessary Provisions.

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

SECTION 1. Section 15-13.5, Hawaii Revised Statutes, is amended to read as follows:

“§15-13.5 Eligibility of voter after absentee ballot cast. The absentee ballot of any voter who was eligible to vote at the time the ballot was cast shall not be deemed invalid solely because the voter became ineligible to vote after casting the ballot. For the purposes of this section, “cast” means that the voter has:

- (1) Deposited the absentee ballot in the mail for ballots mailed in accordance with section ~~[15-9(a)(1);]~~ 15-9;
- (2) Delivered the absentee ballot to the appropriate county clerk or polling place in accordance with section 15-9; or
- (3) Completed voting in person at an absentee polling place.”

SECTION 2. Section 23-78, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) This section shall apply to the following:

- (1) Section 237-24.7(1)—Amounts received by hotel operators and hotel suboperators for employee wages and fringe benefits;
- (2) Section 237-24.7(2)—Amounts received by a county transportation system operator under a contract with the county;
- (3) Section 237-24.7(4)—Amounts received by orchard property operators for employee wages and fringe benefits;
- (4) Section 237-24.7(6)—Amounts received from insurers for damage or loss of inventory of businesses located in a natural disaster area;
- (5) Section 237-24.7(7)—Amounts received by community organizations, school booster clubs, and nonprofit organizations for precinct and other election-related activities;
- (6) Section 237-24.7(8)—Interest received by persons domiciled outside the State from trust companies acting as payment agents or trustees

on behalf of issuers or payees of interest-bearing instruments or obligations;

- (7) Section 237-24.7(9)—Amounts received by management companies from related entities engaged in interstate or foreign common carrier telecommunications services for employee wages and fringe benefits; and
- (8) Section 237-24.7(10)—Amounts received from ~~[high]~~ technology research and development grants.

SECTION 3. Section 201B-12, Hawaii Revised Statutes, is amended by amending its title to read as follows:

“§201B-12 Exemption of authority from taxation ~~[and Hawaii public procurement code].~~”

SECTION 4. Section 206M-24, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) For the purposes of this section:

“Grant” means financial assistance provided to Hawaii small business innovation research, small business technology transfer, and other agency and private sector awardees and applicants under the terms and conditions provided in this chapter.

“Hawaii small business innovation research”, “small business technology transfer”, and “sustainable aviation fuel program” means the programs administered by the development corporation to encourage participation by enterprises in federal research and development programs.

“Other agency” means an entity that receives an award or contract granted by the United States Departments of Agriculture, Transportation, Energy, Defense, or Commerce, or other federal agencies for activities consistent with those defined in this section.

“Small business” shall have the same meaning as in section 201M-1.

“Sustainable aviation fuel” means ~~[American Society for Testing and Materials]~~ ASTM International D7566-compliant renewable aviation turbine fuel derived from biofuels, as defined in section 269-91, and with a greenhouse gas lifecycle carbon intensity lower than the baseline for jet fuel defined by the International Civil Aviation Organization.”

SECTION 5. Section 249-1, Hawaii Revised Statutes, is amended by amending the definition of “moped” to read as follows:

““Moped” means a device upon which a person may ride that has ~~[two]~~:

- (1) ~~Two~~ or three wheels in contact with the ground~~[-a]~~;
- (2) ~~A~~ motor having a maximum power output capability measured at the motor output shaft, in accordance with ~~[the Society of Automotive Engineers]~~ SAE International standards, of two horsepower (one thousand four hundred ninety-two watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and that will propel the device, unassisted, on a level surface at a maximum speed no greater than thirty miles per hour; and ~~[a]~~
- (3) ~~A~~ direct or automatic power drive system~~[-which]~~ that requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit.

“Moped” does not include an electric foot scooter.”

SECTION 6. Section 286-2, Hawaii Revised Statutes, is amended by amending the definition of “moped” to read as follows:

““Moped” means a device upon which a person may ride that has ~~[two]~~:

- (1) Two or three wheels in contact with the ground~~[-a]~~;
- (2) A motor having a maximum power output capability measured at the motor output shaft, in accordance with ~~[the Society of Automotive Engineers]~~ SAE International standards, of two horsepower (one thousand four hundred ninety-two watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and that will propel the moped, unassisted, on a level surface at a maximum speed no greater than thirty miles per hour; and ~~[a]~~
- (3) A direct or automatic power drive system~~[-which]~~ that requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit.

“Moped” does not include an electric foot scooter.”

SECTION 7. Section 291C-1, Hawaii Revised Statutes, is amended by amending the definition of “moped” to read as follows:

““Moped” means a device upon which a person may ride that has ~~[two]~~:

- (1) Two or three wheels in contact with the ground~~[-a]~~;
- (2) A motor having a maximum power output capability measured at the motor output shaft, in accordance with ~~[the Society of Automotive Engineers]~~ SAE International standards, of two horsepower (one thousand four hundred ninety-two watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and that will propel the device, unassisted, on a level surface at a maximum speed no greater than thirty miles per hour; and ~~[a]~~
- (3) A direct or automatic power drive system~~[-which]~~ that requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit.

“Moped” does not include an electric foot scooter.”

SECTION 8. Section 291C-202, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every moped offered for sale for use upon, sold for use upon, or used upon the roadways and highways shall be equipped with:

- (1) A motor having a maximum power output capability, measured at the motor output shaft, in accordance with ~~[the Society of Automotive Engineers]~~ SAE International standards, of two horsepower (one thousand four hundred ninety-two watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and ~~[which]~~ that will propel the moped, unassisted, on a level surface at a maximum speed no greater than thirty miles per hour; provided that those mopeds, including those modified pursuant to section 291C-206, registered prior to April 23, 1998, shall continue to be subject to the prior thirty-five miles per hour maximum speed limitation; and
- (2) A direct or automatic power drive system ~~[which]~~ that requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit.”

SECTION 9. Section 291J-4, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) During the first thirty days of operation of an individual photo red light imaging detector system at a particular traffic signal, a warning shall be issued for any violation of section 291C-32(c) and mailed to the registered owner of the motor vehicle at the address on record [as] at the vehicle licensing division in lieu of a summons or citation pursuant to section 291J-6.”

SECTION 10. Section 350-1, Hawaii Revised Statutes, is amended by amending the definitions of “severe forms of trafficking in persons” and “sex trafficking” to read as follows:

““Severe forms of trafficking in persons” has the same meaning as provided in title 22 United States Code Annotated section [7102(9)-] 7102.

“Sex trafficking” has the same meaning as provided in title 22 United States Code Annotated section [7102(10)-] 7102.”

SECTION 11. Section 486-7, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The specifications, tolerances, and other technical requirements for measuring devices and the uniform laws and regulations as adopted by the National Conference on Weights and Measures, recommended and published by the National Institute of Standards and Technology and adopted[;] or amended and adopted by the board pursuant to chapter 91, shall be the basis for measurement standards in the State. In addition, the board, pursuant to chapter 91, may adopt or amend and adopt any other measurement standard established by the National Institute of Standards and Technology, [~~the American Society for Testing and Materials;~~] ASTM International, the American National Standards Institute, the International Organization of Legal Metrology, the International Bureau of Weights and Measures, and [~~the Society of Automotive Engineers;~~] SAE International, among others.”

SECTION 12. Section 486-56, Hawaii Revised Statutes, is amended to read as follows:

“**§486-56 Adoption of standards and rules.** The standards as published by [~~the American Society for Testing and Materials (ASTM)]~~ ASTM International and [~~the Society of Automotive Engineers (SAE)]~~ SAE International are adopted except as amended or modified by rule of the board pursuant to chapter 91. The board may also adopt rules on the advertising, labeling, standards for, handling, storing, dispensing, and selling of petroleum products. Notwithstanding the foregoing, rules adopted by the board referring to ASTM D4814, relating to standard specification for automotive spark-ignition engine fuel, shall be deemed to refer to version ASTM D4814-13b adopted in 2013, as modified by the National Institute of Standards and Technology Handbook 130, part IV, subpart G, section 2.1 adopted in 2013.”

SECTION 13. Section 706-606.5, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) Notwithstanding section 706-669 and any other law to the contrary, any person convicted of murder in the second degree, any class A felony, any class B felony, or any of the following class C felonies:

- (a) Section 134-7 relating to persons prohibited from owning, possessing, or controlling firearms or ammunition;
- (b) Section 134-8 relating to ownership, etc., of certain prohibited weapons;

- (c) Section 134-17 only as it relates to providing false information or evidence to obtain a permit under section 134-9;
- (d) Section 188-23 relating to possession or use of explosives, electro-fishing devices, and poisonous substances in state waters;
- (e) Section 386-98(d)(1) relating to fraud violations and penalties;
- (f) Section 431:2-403(b)(2) relating to insurance fraud;
- (g) Section 707-703 relating to negligent homicide in the second degree;
- (h) Section 707-711 relating to assault in the second degree;
- (i) Section 707-713 relating to reckless endangering in the first degree;
- (j) Section 707-716 relating to terroristic threatening in the first degree;
- (k) Section 707-721 relating to unlawful imprisonment in the first degree;
- (l) Section 707-732 relating to sexual assault in the third degree;
- (m) Section 707-752 relating to promoting child abuse in the third degree;
- (n) Section 707-757 relating to electronic enticement of a child in the second degree;
- (o) Section 707-766 relating to extortion in the second degree;
- (p) Section 708-811 relating to burglary in the second degree;
- (q) Section 708-821 relating to criminal property damage in the second degree;
- (r) Section 708-831 relating to theft in the second degree;
- (s) Section 708-835.5 relating to theft of livestock;
- (t) Section 708-836 relating to unauthorized control of a propelled vehicle[;] in the first degree;
- (u) Section 708-839.55 relating to unauthorized possession of confidential personal information;
- (v) Section 708-839.8 relating to identity theft in the third degree;
- (w) Section 708-852 relating to forgery in the second degree;
- (x) Section 708-854 relating to criminal possession of a forgery device;
- (y) Section 708-875 relating to trademark counterfeiting;
- (z) Section 710-1071 relating to intimidating a witness;
- (aa) Section 711-1103 relating to riot;
- (bb) Section 712-1221 relating to promoting gambling in the first degree;
- (cc) Section 712-1224 relating to possession of gambling records in the first degree;
- (dd) Section 712-1247 relating to promoting a detrimental drug in the first degree; or
- (ee) Section 846E-9 relating to failure to comply with covered offender registration requirements,

or who is convicted of attempting to commit murder in the second degree, any class A felony, any class B felony, or any of the class C felony offenses enumerated above and who has a prior conviction or prior convictions for the following felonies, including an attempt to commit the same: murder, murder in the first or second degree, a class A felony, a class B felony, any of the class C felony offenses enumerated above, or any felony conviction of another jurisdiction, shall be sentenced to a mandatory minimum period of imprisonment without possibility of parole as provided in subsection (2).”

SECTION 14. Act 173, Session Laws of Hawaii 2021, is amended by amending section 3 to read as follows:

“SECTION 3. This Act shall take effect upon its approval ~~[and shall be repealed];~~ provided that on June 30, 2025[-], this Act shall be repealed and section 302L-1.6(c), Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act.”

SECTION 15. Act 1, Special Session Laws of Hawaii 2021, is amended by amending section 25 to read as follows:

“SECTION 25. This Act shall take effect on July 1, 2021; provided that ~~[parts]:~~

- (1) Parts VI and VII of this Act shall take effect on January 1, 2022[-];
- (2) The amendments made to section 87A-42, Hawaii Revised Statutes, in section 8 of this Act shall take effect upon the reenactment of that section on June 30, 2023, pursuant to section 9 of Act 229, Session Laws of Hawaii 2021; and
- (3) The amendments made to section 237D-6.5(b), Hawaii Revised Statutes, in section 13 of this Act shall not be repealed when that subsection is reenacted on June 30, 2023, pursuant to section 9 of Act 229, Session Laws of Hawaii 2021.”

SECTION 16. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 17. This Act shall take effect upon its approval.

(Approved June 17, 2022.)