

A Bill for an Act Relating to Transportation.

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

PART I

SECTION 1. The legislature finds that traffic fatalities and injuries in Hawaii have increased, with a record high of one hundred seventeen traffic fatalities and five hundred seventy serious traffic-related injuries in 2022. In the first six months of 2023, Hawaii had forty-three traffic fatalities, with two deaths occurring immediately outside of public schools. The legislature recognizes that these tragic events demonstrate the need for greater safeguards and deterrents to improve safety on Hawaii's streets and better protect Hawaii's residents.

The legislature further finds that repeated violations of the State's minimum motor vehicle insurance policy requirements have increased, burdening innocent victims of motor vehicle accidents with the cost of accidents caused by repeat offenders. Motor vehicle insurance minimums have remained unamended for nearly twenty-five years, making the required liability insurance minimums insufficient to protect Hawaii residents from repeat offenders.

The legislature also finds that with rising inflation, failure to increase motor vehicle insurance will operate as a financial burden imposed on tort victims throughout Hawaii. The legislature notes that the State is experiencing medical inflation, which has substantially increased the average cost of motor vehicle accident-related injuries since the required motor vehicle insurance minimums were last amended. The legislature also notes that Hawaii's outdated liability insurance minimum requirements disproportionately impact residents injured in motor vehicle accidents, and are no longer sufficient to protect law-abiding drivers and pedestrians. The legislature believes that it is necessary to mitigate these impacts on Hawaii residents through legislation to increase certain traffic fines and required motor vehicle insurance minimums.

Accordingly, the purpose of this part is to amend the penalties for repeated driving without motor vehicle liability insurance and required motor vehicle insurance.

SECTION 2. 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 operated 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 traffic and emergency period 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 [~~no~~] not less than \$100 nor more than \$5,000 which shall not be suspended except as provided in subparagraph (B); and
- (B) If the person is convicted of not having had a motor vehicle insurance 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~~] \$2,000 for each subsequent offense that occurs within

- a five-year period from any prior offense; provided that the court:
- (i) Shall have the discretion to suspend all or any portion of the fine if the defendant provides proof of having a current motor vehicle insurance policy; provided further that upon the defendant's request, the court may grant community service in lieu of the fine, of no less than seventy-five hours and no more than one hundred hours for the first offense, and ~~no~~ not less than two hundred hours nor more than two hundred seventy-five hours for the second offense; and
 - (ii) May grant community service in lieu of the fine for subsequent offenses at the court's discretion;
- (3) In addition to the fine in paragraph (2), the court shall either:
 - (A) Suspend the driver's license of the driver or of the registered owner for:
 - (i) Three months for the first conviction; and
 - (ii) One year for any subsequent offense within a five-year period from a previous offense;

provided that the driver or the registered owner shall not be required to obtain proof of financial responsibility pursuant to section 287-20; or
 - (B) Require the driver or the registered owner to keep a nonrefundable motor vehicle insurance policy in force for six months;
 - (4) Any person subject to a fine under this section and who fails to timely pay the fine shall be given an opportunity to petition the court to demonstrate that the person's nonpayment or inability to pay is not wilful; provided that if the person petitions the court, the court shall make an individualized assessment of the person's ability to pay based upon the totality of the circumstances, including the person's disposable income, financial obligations, and liquid assets; provided further that if the court determines that the person's nonpayment or inability to pay is not wilful, the court may enter an order that allows additional time for payment; reduces the amount of each installment; revokes the fee or fine, or unpaid portion thereof, in whole or in part; or converts any outstanding fine to community service;
 - (5) Any person cited under this section shall have an opportunity to present a good faith defense, including lack of knowledge or proof of insurance; provided that 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;
 - (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;
 - (6) In the case of multiple convictions for driving without a valid motor vehicle insurance policy within a five-year period from any prior offense, the court, in addition to any other penalty, shall impose the following penalties:
 - (A) Imprisonment of no 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; and
- (7) Any violation as provided in paragraph (2)(B) shall not be deemed to be a traffic infraction as defined by chapter 291D.”

PART II

SECTION 3. Section 431:10C-301, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) A motor vehicle insurance policy shall include:
- (1) Liability coverage of not less than ~~[\$20,000]~~ \$40,000 per person, with an aggregate limit of ~~[\$40,000]~~ \$80,000 per accident, for all damages arising out of accidental harm sustained as a result of any one accident and arising out of the ownership, maintenance, use, loading, or unloading of a motor vehicle;
 - (2) Liability coverage of not less than ~~[\$10,000]~~ \$20,000 for all damages arising out of damage to or destruction of property including motor vehicles and including the loss of use thereof, but not including property owned by, being transported by, or in the charge of the insured, as a result of any one accident arising out of the ownership, maintenance, use, loading, or unloading, of the insured vehicle;
 - (3) With respect to any motor vehicle registered or principally garaged in this State, liability coverage provided therein or supplemental thereto, in limits for bodily injury or death set forth in paragraph (1) under provisions filed with and approved by the commissioner, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, or disease, including death, resulting therefrom; provided that the coverage required under this paragraph shall not be applicable where any named insured in the policy shall reject the coverage in writing; and
 - (4) Coverage for loss resulting from bodily injury or death suffered by any person legally entitled to recover damages from owners or operators of underinsured motor vehicles. An insurer may offer the underinsured motorist coverage required by this paragraph in the same manner as uninsured motorist coverage; provided that the offer of both shall:
 - (A) Be conspicuously displayed so as to be readily noticeable by the insured;
 - (B) Set forth the premium for the coverage adjacent to the offer in a manner that the premium is clearly identifiable with the offer and may be easily subtracted from the total premium to determine the premium payment due in the event the insured elects not to purchase the option; and
 - (C) Provide for written rejection of the coverage by requiring the insured to affix the insured’s signature in a location adjacent to or directly below the offer.”

SECTION 4. Section 431:10C-802, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A peer-to-peer car-sharing program shall ensure that during each car-sharing period, the shared car is insured under a motor vehicle insurance policy that provides:

- (1) Primary insurance coverage for each shared car available and used through a peer-to-peer car-sharing program in amounts no less than [~~four times~~] the amounts set forth in section 431:10C-301(b) for death, bodily injury, and property damage per accident, and costs of defense outside the limits;
- (2) Primary insurance coverage for each shared car available and used through a peer-to-peer car-sharing program for personal injury protection coverage that meets the minimum coverage amounts required by section 431:10C-103.5; and
- (3) The following optional coverages, which any named insured may elect to reject or purchase, that provides primary coverage for each shared car available and used through a peer-to-peer car-sharing program:
 - (A) Uninsured and underinsured motorist coverages as provided in section 431:10C-301, which shall be equal to the primary liability limits specified in this section; provided that uninsured and underinsured motorist coverage offers shall provide for written rejection of the coverages as provided in section 431:10C-301;
 - (B) Uninsured and underinsured motorist coverage stacking options as provided in section 431:10C-301; provided that the offer of the stacking options shall provide for written rejection as provided in section 431:10C-301;
 - (C) An offer of required optional additional insurance coverages as provided in section 431:10C-302; and
 - (D) In the event the only named insured under the motor vehicle insurance policy issued pursuant to this section is the peer-to-peer car-sharing program, the insurer or the peer-to-peer car-sharing program shall:
 - (i) Disclose the coverages in writing to the shared car driver;
 - (ii) Disclose to the shared car driver in writing that all optional coverages available may not have been purchased under sections 431:10C-301 and 431:10C-302; and
 - (iii) Obtain a written acknowledgement from the shared car driver of receipt of the written disclosures required in paragraphs (1) and (2). The standard disclosure forms used in paragraphs (1) and (2), and every modification of forms intended to be used, shall be filed with the commissioner within fifteen days of providing the disclosure to the shared car driver. The insurer or the peer-to-peer car-sharing program shall also send to the shared car driver every modified disclosure form within fifteen days of the filing of the modified disclosure form and comply with paragraph (3). The disclosures and acknowledgement may be sent and received by electronic means.”

PART III

SECTION 5. The insurance commissioner shall issue a memorandum to solicit rate filings from motor vehicle insurers to reflect amendments made to section 431:10C-301(b)(1) and (2), Hawaii Revised Statutes, by section 3 of this Act no later than January 1, 2025. Rate filings shall be due no later than July 1, 2025, and the relevant rate changes shall be effective for new and renewal policies on or after January 1, 2026.

PART IV

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

SECTION 7. This Act shall take effect on July 1, 2024; provided that part II shall take effect on January 1, 2026.

(Approved July 1, 2024.)