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## A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE INSURANCE.

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

1           SECTION 1. Section 431:10C-306, Hawaii Revised Statutes,  
2 is amended by amending subsection (b) to read as follows:

3           "(b) Tort liability is not abolished as to the following  
4 persons, their personal representatives, or their legal  
5 guardians in the following circumstances:

6           (1) Death occurs to the person in such a motor vehicle  
7 accident;

8           (2) Injury occurs to the person which consists, in whole  
9 or in part, in a significant permanent loss of use of  
10 a part or function of the body;

11           (3) Injury occurs to the person which consists of a  
12 permanent and serious disfigurement which results in  
13 subjection of the injured person to mental or  
14 emotional suffering; or

15           (4) Injury occurs to the person in a motor vehicle  
16 accident and as a result of such injury that the  
17 personal injury protection benefits incurred by such



1 person equal or exceed \$5,000; provided that in  
2 calculating this amount:

3 (A) The following shall be included:

4 (i) Personal injury protection benefits incurred  
5 by, paid to or payable to, or on behalf of,  
6 an eligible injured person including amounts  
7 paid directly by or on behalf of the  
8 eligible insured because of the accidental  
9 harm or similar benefits under social  
10 security, worker's compensation, or public  
11 assistance laws;

12 (ii) The applicable amounts of deductible or  
13 copayment paid or incurred;

14 (iii) Amounts paid by or on behalf of an injured  
15 person who is not entitled to personal  
16 injury protection benefits, by health  
17 insurance or other funds; provided that  
18 payment in excess of the charges or services  
19 allowable under this chapter shall not be  
20 included;

21 (iv) Where an eligible injured person receives  
22 coverage on other than a fee for service



1 basis including, but not limited to, a  
2 health maintenance organization operating on  
3 a capitation basis, the value of services  
4 provided shall be determined in accordance  
5 with the fee schedules allowable under this  
6 chapter for purposes of threshold  
7 determination;

8 (B) When a person has optional coverage, benefits  
9 received in excess of the maximum basic personal  
10 injury protection limits set forth in section  
11 431:10C-103.5 shall not be included[~~-~~];  
12 provided that damages for pain and suffering awarded  
13 per injured person shall be subject to the medical fee  
14 schedule as provided under section 431:10C-308.5."

15 SECTION 2. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 3. This Act shall take effect upon its approval.

18

INTRODUCED BY: MUL

JAN 18 2007



**Report Title:**

No Fault; Pain and Suffering; Fixed Amount

**Description:**

Establishes fixed dollar amounts for pain and suffering under the motor vehicle insurance law.

