

JAN 23 2009

A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 SECTION 1. The purpose of this Act is to require a
2 business to provide commercial motor vehicle insurance coverage
3 for delivery persons and drivers who are employed by the
4 business but use the delivery person or driver's own motor
5 vehicle to make deliveries or to transport clients for business
6 purposes.

7 SECTION 2. Chapter 431, article 10C, Hawaii Revised
8 Statutes, is amended by adding a new section to be appropriately
9 designated and to read as follows:

10 "§431:10C- Commercial motor vehicle insurance coverage
11 for delivery persons. (a) Every business that employs a
12 delivery person or driver and requires the delivery person or
13 driver to use the person's own motor vehicle to make deliveries
14 for the business shall purchase and maintain in force a
15 commercial motor vehicle insurance policy covering the delivery
16 person or driver. The insurance policy shall name the delivery
17 person or driver as an insured and shall provide coverage when



1 the delivery person or driver makes deliveries or transports
2 persons for the business in the course of the delivery person or
3 driver's regular employment with the business. The commercial
4 motor vehicle insurance policy and coverage shall comply with
5 the requirements of this article.

6 (b) In lieu of a commercial motor vehicle insurance policy
7 required by subsection (a), a business may self-insure the
8 coverage for a delivery person or driver. The self-insurance
9 shall comply with the requirements of this article.

10 (c) The commissioner shall administer and enforce this
11 section and may adopt rules pursuant to chapter 91 to carry out
12 the purpose of this section."

13 SECTION 3. Section 431:10C-103, Hawaii Revised Statutes,
14 is amended by adding two new definitions to be appropriately
15 inserted and to read as follows:

16 "Business" means a person who engages in the conduct of
17 business, whether as a sole proprietorship, partnership,
18 corporation, or limited liability entity.

19 "Delivery person or driver" means an employee of a business
20 whose employment duties require the employee to deliver food,
21 merchandise, or other products of the business or who transport
22 passengers without charge in motor vehicles owned or operated by



1 the employee, where the transportation is provided in
2 conjunction with and in furtherance of a related primary
3 business purpose in accordance with paragraph 271-5(17).

4 "Delivery person or driver" does not include:

5 (1) Persons transporting the person's own property in the
6 person's own vehicle where the transportation is in
7 furtherance of a primary business purpose or
8 enterprise of that person;

9 (2) Persons operating as a common carrier by motor vehicle
10 as defined in section 271-4;

11 (3) Persons operating as a contract carrier by motor
12 vehicle as defined in section 271-4;

13 (4) Persons operating taxicabs or other motor vehicles
14 utilized in performing a bona fide taxicab service as
15 defined in section 269-1;

16 (5) Members of nonprofit agricultural cooperative
17 associations who transport the property of the
18 association, the property of a member of the
19 association, or a person who is a member of the
20 association in furtherance of a primary business
21 purpose of the association;



1 (6) Persons operating motor vehicles specially constructed
2 for the towing of disabled or wrecked vehicles but not
3 otherwise used in the transportation of property for
4 compensation or hire;

5 (7) Persons operating motor vehicles in the transportation
6 of mail, newspapers, periodicals, magazines, messages,
7 documents, letters, or blueprints;

8 (8) Persons operating funeral cars or ambulances;

9 (9) Persons operating motor vehicles in the transportation
10 of garbage or refuse, including the transportation of
11 recyclable materials to a redemption center;

12 (10) Persons transporting unprocessed agricultural
13 products, including live animals, to a processing
14 facility or slaughterhouse, or returning any
15 containers used in such transportation;

16 (11) Sugar plantations transporting sugarcane, raw sugar,
17 molasses, sugar by-products, and farming supplies for
18 neighboring farmers pursuant to contracts administered
19 by the United States Department of Agriculture;

20 (12) Persons transporting animal feeds and farming supplies
21 to animal husbandry farmers and returning any
22 containers used in the transportation;



- 1 (13) Persons transporting passengers in a single daily
2 round trip that includes the person's own place of
3 employment, in the person's own vehicle, between the
4 passengers' respective places of abode or termini near
5 such places and the passengers' respective places of
6 employment, regardless of whether any consideration is
7 exchanged between the driver and the passengers; and
8 (14) Persons conducting the type of county-regulated
9 passenger carrying operation known as "jitney
10 services." For the purpose of this section, "jitney
11 services" means public transportation services
12 utilizing motor vehicles that have seating
13 accommodations for six to twenty-five passengers,
14 operate along specific routes during defined service
15 hours, and levy a flat fare schedule."

16 SECTION 4. New statutory material is underscored.

17 SECTION 5. This Act shall take effect on July 1, 2009.

18 INTRODUCED BY: 



Report Title:

Commercial Motor Vehicle Insurance; Delivery Persons;
Transportation

Description:

Requires businesses to provide commercial motor vehicle insurance coverage for drivers and delivery persons who use their own motor vehicles to make deliveries and transport persons for business purposes.

