

JAN 20 2017

A BILL FOR AN ACT

RELATING TO MOTOR VEHICLES.

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

1 SECTION 1. Section 286-25, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§286-25 Operation of a vehicle or moped without a
4 certificate of inspection. (a) Whoever operates, permits the
5 operation of, causes to be operated, or parks any vehicle or
6 moped on a public highway without a current official certificate
7 of inspection, issued under section 286-26, shall be fined not
8 more than \$100[-], and the vehicle or moped may be seized
9 pursuant to subsection (b).

10 (b) If a person has been fined pursuant to subsection (a)
11 three or more times for the same vehicle or moped without
12 obtaining a current official certificate of inspection, the
13 vehicle or moped may be seized no earlier than the twentieth day
14 after the first fine, by the director of finance or by any
15 police officer, and held for a period of ten days, during which
16 time the vehicle or moped shall be subject to redemption by its
17 owner, by proving that a current official certificate of



1 inspection has been obtained and by paying the applicable fines,
2 cost of storage, and other charges incident to the seizure of
3 the vehicle or moped. The director of finance, chief of police,
4 or any police officer shall be deemed to have seized and taken
5 possession of a vehicle or moped, after having securely sealed
6 it where located and posted a notice upon the vehicle or moped,
7 setting forth the fact that it has been seized for not having a
8 current official certificate of inspection, as required under
9 subsection (a), and warning all other persons from tampering
10 with the vehicle or moped. Any person who tampers with or
11 disturbs any vehicle or moped that has been seized pursuant to
12 this section shall be fined not more than \$500.

13 (c) All vehicles or mopeds seized and sealed shall remain
14 at the place of seizure or at any other place that the director
15 of finance may direct, at the expense and risk of the owner. If
16 the owner of the vehicle or moped fails to redeem it within ten
17 days after seizure, the vehicle or moped may be sold by the
18 director of finance at public auction to the highest bidder for
19 cash, after giving ten days public notice in the county where
20 the vehicle or moped was seized and by posting notices in at
21 least three public places in the district where the vehicle or



1 moped was seized; provided that the requirements of public
2 auction may be waived when the appraised value of any vehicle or
3 moped is less than \$250, as determined by the director of
4 finance or an authorized representative, in which case the
5 vehicle or moped may be disposed of in the same manner as when a
6 motor vehicle is put up for public auction and no bid is
7 received. The amount realized at the sale, less the amount of
8 the applicable fines, together with all costs incurred in giving
9 public notice, storing, and selling the vehicle or moped, and
10 all other charges incident to the seizure and sale, shall be
11 paid to the owner of the vehicle or moped. If no claim for the
12 surplus is filed with the director of finance within sixty days
13 from the date of the sale, the surplus shall be paid into the
14 county treasury as a government realization and all claim to
15 that sum shall thereafter be forever barred.

16 (d) Any vehicle or moped impounded pursuant to this
17 section shall be released forthwith to the registered owner,
18 without payment of the applicable fines, cost of storage, and
19 other charges incident to the seizure of the vehicle or moped,
20 if the interests of justice so require."



1 SECTION 2. Section 286-102, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§286-102 Licensing. (a) No person, except one:

- 4 (1) Exempted under section 286-105;
- 5 (2) Who holds an instruction permit under section 286-110;
- 6 (3) Who holds a limited purpose driver's license, limited
7 purpose provisional driver's license, or limited
8 purpose instruction permit under section 286-104.5;
- 9 (4) Who holds a provisional license under section
10 286-102.6;
- 11 (5) Who holds a commercial driver's license issued under
12 section 286-239; or
- 13 (6) Who holds a commercial driver's license instruction
14 permit issued under section 286-236,

15 shall operate any category of motor vehicles listed in this
16 section without first being appropriately examined and duly
17 licensed as a qualified driver of that category of motor
18 vehicles.

19 (b) A person operating the following category or
20 combination of categories of motor vehicles shall be examined as



1 provided in section 286-108 and duly licensed by the examiner of
2 drivers:

- 3 (1) Mopeds;
- 4 (2) Motorcycles and motor scooters;
- 5 (3) Passenger cars of any gross vehicle weight rating,
6 buses designed to transport fifteen or fewer
7 occupants, and trucks and vans having a gross vehicle
8 weight rating of eighteen thousand pounds or less; and
- 9 (4) All of the motor vehicles in category (3) and any
10 vehicle that is not a commercial motor vehicle.

11 A school bus or van operator shall be properly licensed to
12 operate the category of vehicles that the operator operates as a
13 school bus or van and shall comply with the standards of the
14 department of transportation as provided by rules adopted
15 pursuant to section 286-181.

16 (c) No person shall receive a driver's license without
17 surrendering to the examiner of drivers all valid driver's
18 licenses and all valid identification cards in the person's
19 possession. All licenses and identification cards so
20 surrendered shall be shredded; provided that with the exception
21 of driver's licenses issued by any Canadian province, a foreign



1 driver's license may be returned to the owner after being
2 invalidated pursuant to issuance of a Hawaii license; provided
3 further that the examiner of drivers shall notify the authority
4 that issued the foreign license that the license has been
5 invalidated and returned because the owner is now licensed in
6 this State; and provided further that all commercial driver's
7 licenses that are surrendered shall be shredded. No person
8 shall be permitted to hold more than one valid driver's license
9 at any time.

10 (d) Before issuing a driver's license, the examiner of
11 drivers shall complete a check of the applicant's driving record
12 to determine whether the applicant is subject to any
13 disqualification under section 286-240, or any license
14 suspension, revocation, or cancellation, and whether the
15 applicant has a driver's license from more than one state or
16 jurisdiction. The record check shall include but is not limited
17 to the following:

18 (1) A check of the applicant's driving record as
19 maintained by the applicant's state or jurisdiction of
20 licensure;



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- 1 (2) A check with the commercial driver license information
2 system;
- 3 (3) A check with the National Driver Register; and
- 4 (4) If the driver is renewing a commercial driver's
5 license for the first time after September 30, 2002, a
6 request for the applicant's complete driving record
7 from all states where the applicant was previously
8 licensed to drive any motor vehicle over the last ten
9 years; provided that a notation is made on the driving
10 record confirming the check has been made and the date
11 it was done.

12 (e) Notwithstanding sections 291E-61.6 and [‡]291E-
13 44.5[‡], in addition to other qualifications and conditions by
14 or pursuant to this part, the right of an individual to hold a
15 motor vehicle operator's license or permit issued by the county
16 is subject to the requirements of section 576D-13.

17 Upon receipt of certification from the child support
18 enforcement agency pursuant to section 576D-13 that an obligor
19 or individual who owns or operates a motor vehicle is not in
20 compliance with an order of support as defined in section 576D-1
21 or has failed to comply with a subpoena or warrant relating to a



1 paternity or child support proceeding, the examiner of drivers
2 shall suspend the license and right to operate motor vehicles
3 and confiscate the license of the obligor. The examiner of
4 drivers shall not reinstate an obligor's or individual's license
5 until the child support enforcement agency, the office of child
6 support hearings, or the family court issues an authorization
7 that states the obligor or individual is in compliance with an
8 order of support or has complied with a subpoena or warrant
9 relating to a paternity or child support hearing.

10 (f) If a person fails to comply with subsection (b), the
11 motor vehicle may be seized by the director of finance or by any
12 police officer and held for a period of ten days, during which
13 time the vehicle shall be subject to redemption by its owner, by
14 paying the applicable cost of storage and other charges incident
15 to the seizure of the vehicle and, if the owner was the driver
16 of the motor vehicle at the time of seizure, by also proving
17 that a valid license to operate the motor vehicle has been
18 obtained. The director of finance, chief of police, or any
19 police officer shall be deemed to have seized and taken
20 possession of any motor vehicle, after having securely sealed it
21 where located and posted a notice upon the motor vehicle,



1 setting forth the fact that it has been seized for operation by
2 a driver not duly licensed, as required under subsection (b),
3 and warning all other persons from tampering with the vehicle.
4 Any person who tampers with or disturbs any vehicle that has
5 been seized pursuant to this section shall be fined not more
6 than \$500.

7 (g) All vehicles seized and sealed pursuant to subsection
8 (f) shall remain at the place of seizure or at any other place
9 that the director of finance may direct, at the expense and risk
10 of the owner. If the owner of the vehicle fails to redeem it
11 within ten days after seizure, the vehicle may be sold by the
12 director of finance at public auction to the highest bidder for
13 cash, after giving ten days public notice in the county where
14 the motor vehicle was seized and by posting notices in at least
15 three public places in the district where the motor vehicle was
16 seized; provided that the requirements of public auction may be
17 waived when the appraised value of any vehicle is less than
18 \$250, as determined by the director of finance or an authorized
19 representative, in which case the motor vehicle may be disposed
20 of in the same manner as when a motor vehicle is put up for
21 public auction and no bid is received. The amount realized at



1 the sale, less the costs incurred in giving public notice,
2 storing, and selling the motor vehicle, and all other charges
3 incident to the seizure and sale, shall be paid to the owner of
4 the motor vehicle. If no claim for the surplus is filed with
5 the director of finance within sixty days from the date of the
6 sale, the surplus shall be paid into the county treasury as a
7 government realization and all claim to that sum shall
8 thereafter be forever barred.

9 (h) Any vehicle impounded pursuant to this section shall
10 be released forthwith to the registered owner, without payment
11 of the applicable cost of storage and other charges incident to
12 the seizure of the motor vehicle, if the interests of justice so
13 require.

14 (i) The licensing authority may adopt rules pursuant to
15 chapter 91 to implement and enforce the requirements of this
16 section."

17 SECTION 3. Section 286-116, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§286-116 License, insurance identification card,**
20 **possession, exhibition.** (a) Every licensee shall have a valid
21 driver's license in the licensee's immediate possession at all



1 times, and a valid motor vehicle or liability insurance
2 identification card applicable to the motor vehicle operated as
3 required under [~~section~~] sections 431:10C-107 and [~~section~~]
4 431:10G-106, when operating a motor vehicle, and shall display
5 the same upon demand of a police officer. Every police officer
6 or law enforcement officer when stopping a vehicle or inspecting
7 a vehicle for any reason shall demand that the driver or owner
8 display the driver's or owner's driver's license and insurance
9 identification card.

10 Upon demand, the driver or owner may display the driver's
11 or owner's electronic motor vehicle insurance identification
12 card on a mobile electronic device, as defined in section 291C-
13 137. For the purposes of this section, when a person uses a
14 mobile electronic device to display an electronic motor vehicle
15 insurance identification card to a police officer or law
16 enforcement officer, the officer may only view the electronic
17 motor vehicle insurance identification card and shall be
18 otherwise prohibited from viewing any other content on the
19 mobile electronic device. Whenever a person presents a mobile
20 electronic device pursuant to this section, that person assumes
21 all liability for any damage to the mobile electronic device.



1 No person charged with violating this section shall be
2 convicted if the person produces in court, or proves from the
3 proper official or other records that the person was the holder
4 of a driver's license or a motor vehicle or liability insurance
5 identification card and policy conforming to ~~[article]~~ articles
6 10C and ~~[article]~~ 10G of chapter 431 or a certificate of self-
7 insurance issued by the insurance commissioner pursuant to
8 ~~[section]~~ sections 431:10C-107 and ~~[section]~~ 431:10G-103,
9 theretofore issued to the person and valid at the time of the
10 person's arrest.

11 (b) At any time a law enforcement officer finds a motor
12 vehicle in operation by a driver not in possession of the motor
13 vehicle or liability insurance identification card required
14 under ~~[section]~~ sections 431:10C-107 and ~~[section]~~ 431:10G-106,
15 the officer shall issue a citation with the earliest possible
16 date for court appearance in every instance.

17 (c) In all instances in which a citation shall be issued
18 under subsection (b), whenever the driver cited is not found to
19 be the registered owner of the motor vehicle under operation,
20 the citation shall also be issued to the driver as the owner's
21 agent and to the registered owner of the motor vehicle.



1 Whenever the registered owner of any motor vehicle permits any
2 person to operate the registered owner's motor vehicle, the
3 registered owner appoints, designates, and constitutes the
4 driver the registered owner's agent for all purposes under this
5 section and ~~[section]~~ sections 431:10C-107, ~~[section]~~ 431:10G-
6 106, and ~~[section]~~ 805-13.

7 (d) The operation of any motor vehicle required to be
8 licensed on a highway by a driver, whether or not licensed, who
9 knows, or has reason to believe, that the motor vehicle is not
10 insured in compliance with ~~[article]~~ articles 10C and ~~[article]~~
11 10G of chapter 431, shall constitute a violation of this
12 chapter.

13 (e) Any registered owner of any motor vehicle required to
14 be licensed, who directly or indirectly permits the operation of
15 ~~[such]~~ the motor vehicle on any highway at any time the motor
16 vehicle is not insured in compliance with ~~[article]~~ articles 10C
17 and ~~[article]~~ 10G of chapter 431, shall be guilty of a violation
18 of this chapter. The registered owner shall, in all cases, be
19 presumed to know whether a motor vehicle is insured in
20 compliance with ~~[article]~~ articles 10C and ~~[article]~~ 10G of
21 chapter 431.



1 (f) Notwithstanding any other law to the contrary, if a
2 person fails to display a valid insurance identification card as
3 required under subsection (a), the motor vehicle may be seized
4 by the director of finance or by any police officer, and held
5 for a period of ten days, during which time the motor vehicle
6 shall be subject to redemption by its owner, by paying the
7 applicable cost of storage and other charges incident to the
8 seizure of the motor vehicle and by also showing a valid
9 insurance identification card, as required under subsection (a).
10 The director of finance, chief of police, or any police officer
11 shall be deemed to have seized and taken possession of any motor
12 vehicle, after having securely sealed it where located and
13 posted a notice upon the motor vehicle, setting forth the fact
14 that it has been seized for failure to display a valid insurance
15 identification card, as required under subsection (a), and
16 warning all other persons from tampering with the vehicle. Any
17 person who tampers with or disturbs any motor vehicle that has
18 been seized pursuant to this section shall be fined not more
19 than \$500.

20 (g) All vehicles seized and sealed pursuant to subsection
21 (f) shall remain at the place of seizure or at any other place



1 that the director of finance may direct, at the expense and risk
2 of the owner. If the owner of the motor vehicle fails to redeem
3 it within ten days after seizure, the motor vehicle may be sold
4 by the director of finance at public auction to the highest
5 bidder for cash, after giving ten days public notice in the
6 county where the motor vehicle was seized and by posting notices
7 in at least three public places in the district where the
8 vehicle was seized; provided that the requirements of public
9 auction may be waived when the appraised value of any motor
10 vehicle is less than \$250, as determined by the director of
11 finance or an authorized representative, in which case the
12 vehicle may be disposed of in the same manner as when a motor
13 vehicle is put up for public auction and no bid is received.
14 The amount realized at the sale, less the costs incurred in
15 giving public notice, storing, and selling the vehicle, and all
16 other charges incident to the seizure and sale, shall be paid to
17 the owner of the motor vehicle. If no claim for the surplus is
18 filed with the director of finance within sixty days from the
19 date of the sale, the surplus shall be paid into the county
20 treasury as a government realization and all claim to that sum
21 shall thereafter be forever barred.



1 (h) Any vehicle impounded pursuant to this section shall
2 be released forthwith to the registered owner, without payment
3 of the applicable cost of storage and other charges incident to
4 the seizure of the vehicle, if the interests of justice so
5 require."

6 SECTION 4. Section 431:10C-104, Hawaii Revised Statutes,
7 is amended to read as follows:

8 "§431:10C-104 Conditions of operation and registration of
9 motor vehicles. (a) Except as provided in section 431:10C-105,
10 no person shall operate or use a motor vehicle upon any public
11 street, road, or highway of this State at any time unless such
12 motor vehicle is insured at all times under a motor vehicle
13 insurance policy.

14 (b) Every owner of a motor vehicle used or operated at any
15 time upon any public street, road, or highway of this State
16 shall obtain a motor vehicle insurance policy upon such vehicle
17 which provides the coverage required by this article and shall
18 maintain the motor vehicle insurance policy at all times for the
19 entire motor vehicle registration period.

20 (c) Any person who violates the provisions of this section
21 shall be subject to the provisions of section 431:10C-117(a).



1 (d) The provisions of this article shall not apply to any
2 vehicle owned by or registered in the name of any agency of the
3 federal government, or to any antique motor vehicle as defined
4 in section 249-1.

5 (e) Notwithstanding any other law to the contrary, if a
6 person fails to comply with subsection (a), the motor vehicle
7 may be seized by the director of finance or by any police
8 officer and held for a period of ten days, during which time the
9 motor vehicle shall be subject to redemption by its owner, by
10 paying the applicable cost of storage and other charges incident
11 to the seizure of the vehicle and by also proving that a valid
12 motor vehicle insurance policy has been obtained. The director
13 of finance, chief of police, or any police officer shall be
14 deemed to have seized and taken possession of any vehicle, after
15 having securely sealed it where located and posted a notice upon
16 the motor vehicle, setting forth the fact that it has been
17 seized for failure to have a valid motor vehicle insurance
18 policy, as required under subsection (a), and warning all other
19 persons from tampering with the vehicle. Any person who tampers
20 with or disturbs any vehicle that has been seized pursuant to
21 this section shall be fined not more than \$500.



1 (f) All vehicles seized and sealed pursuant to subsection
2 (e) shall remain at the place of seizure or at any other place
3 that the director of finance may direct, at the expense and risk
4 of the owner. If the owner of the motor vehicle fails to redeem
5 it within ten days after seizure, the motor vehicle may be sold
6 by the director of finance at public auction to the highest
7 bidder for cash, after giving ten days public notice in the
8 county where the motor vehicle was seized and by posting notices
9 in at least three public places in the district where the motor
10 vehicle was seized; provided that the requirements of public
11 auction may be waived when the appraised value of any vehicle is
12 less than \$250, as determined by the director of finance or an
13 authorized representative, in which case the vehicle may be
14 disposed of in the same manner as when a motor vehicle is put up
15 for public auction and no bid is received. The amount realized
16 at the sale, less the costs incurred in giving public notice,
17 storing, and selling the motor vehicle, and all other charges
18 incident to the seizure and sale, shall be paid to the owner of
19 the motor vehicle. If no claim for the surplus is filed with
20 the director of finance within sixty days from the date of the
21 sale, the surplus shall be paid into the county treasury as a



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1 government realization and all claim to that sum shall
2 thereafter be forever barred.

3 (g) Any motor vehicle impounded pursuant to this section
4 shall be released forthwith to the registered owner, without
5 payment of the applicable cost of storage and other charges
6 incident to the seizure of the vehicle, if the interests of
7 justice so require."

8 SECTION 5. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

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

13 SECTION 7. This Act shall take effect on July 1, 2017.

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Report Title:

Motor Vehicle; Impound; Seizure; Insurance; Safety Check;
License; Moped

Description:

Authorizes and sets forth procedures for impounding a motor vehicle or moped after a person has been fined three or more times for operating a vehicle without a valid certificate of inspection, or for operating a vehicle without being duly licensed, without a valid insurance card, or without a valid insurance policy.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

