S.B. NO. <sup>2342</sup> S.D. 2 H.D. 3

C.D. 1

# A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

1

### PART I

2 SECTION 1. The legislature finds that traffic fatalities and injuries in Hawaii have increased, with a record high of one 3 4 hundred seventeen traffic fatalities and five hundred seventy 5 serious traffic-related injuries in 2022. In the first six months of 2023, Hawaii had forty-three traffic fatalities, with 6 two deaths occurring immediately outside of public schools. 7 The legislature recognizes that these tragic events demonstrate the 8 9 need for greater safeguards and deterrents to improve safety on 10 Hawaii's streets and better protect Hawaii's residents.

11 The legislature further finds that repeated violations of 12 the State's minimum motor vehicle insurance policy requirements 13 have increased, burdening innocent victims of motor vehicle 14 accidents with the cost of accidents caused by repeat offenders. Motor vehicle insurance minimums have remained unamended for 15 16 nearly twenty-five years, making the required liability 17 insurance minimums insufficient to protect Hawaii residents from 18 repeat offenders.

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1 The legislature also finds that with rising inflation, 2 failure to increase motor vehicle insurance will operate as a 3 financial burden imposed on tort victims throughout Hawaii. The 4 legislature notes that the State is experiencing medical 5 inflation, which has substantially increased the average cost of 6 motor vehicle accident-related injuries since the required motor 7 vehicle insurance minimums were last amended. The legislature 8 also notes that Hawaii's outdated liability insurance minimum 9 requirements disproportionately impact residents injured in 10 motor vehicle accidents, and are no longer sufficient to protect 11 law-abiding drivers and pedestrians. The legislature believes 12 that it is necessary to mitigate these impacts on Hawaii 13 residents through legislation to increase certain traffic fines 14 and required motor vehicle insurance minimums. 15 Accordingly, the purpose of this part is to amend the

16 penalties for repeated driving without motor vehicle liability 17 insurance and required motor vehicle insurance.

18 SECTION 2. Section 431:10C-117, Hawaii Revised Statutes, 19 is amended by amending subsection (a) to read as follows: 20 "(a)(1) Any person subject to this article in the capacity of 21 the operator, owner, or registrant of a motor vehicle





| 1  |     | oper  | ated in this State, or registered in this State,                       |  |
|----|-----|-------|--|--|
| 2  |     | who   | violates any applicable provision of this article,                     |  |
| 3  |     | shal  | l be subject to citation for the violation by any                      |  |
| 4  |     | coun  | ty police department in a form and manner approved                     |  |
| 5  |     | by t  | he traffic and emergency period violations bureau                      |  |
| 6  |     | of t  | he district court of the first circuit;                                |  |
| 7  | (2) | Notw  | ithstanding any provision of the Hawaii Penal                          |  |
| 8  |     | Code: |  |  |
| 9  |     | (A)   | Each violation shall be deemed a separate offense                      |  |
| 10 |     |       | and shall be subject to a fine of [ <del>no</del> ] <u>not</u> less    |  |
| 11 |     |       | than \$100 nor more than \$5,000 which shall not be                    |  |
| 12 |     |       | suspended except as provided in subparagraph (B);                      |  |
| 13 |     |       | and  |  |
| 14 |     | (B)   | If the person is convicted of not having had a                         |  |
| 15 |     |       | motor vehicle insurance policy in effect at the                        |  |
| 16 |     |       | time the citation was issued, the fine shall be                        |  |
| 17 |     |       | \$500 for the first offense and a minimum of                           |  |
| 18 |     |       | [ <del>\$1,500</del> ] <u>\$2,000</u> for each subsequent offense that |  |
| 19 |     |       | occurs within a five-year period from any prior                        |  |
| 20 |     |       | offense; provided that the court:                                      |  |

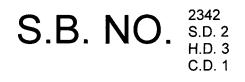
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| 1  |     | (i)           | Shall have the discretion to suspend all or          |
|----|-----|---------------|--|
| 2  |     |               | any portion of the fine if the defendant             |
| 3  |     |               | provides proof of having a current motor             |
| 4  |     |               | vehicle insurance policy; provided further           |
| 5  |     |               | that upon the defendant's request, the court         |
| 6  |     |               | may grant community service in lieu of the           |
| 7  |     |               | fine, of no less than seventy-five hours and         |
| 8  |     |               | no more than one hundred hours for the first         |
| 9  |     |               | offense, and $[no]$ <u>not</u> less than two hundred |
| 10 |     |               | hours nor more than two hundred seventy-five         |
| 11 |     |               | hours for the second offense; and                    |
| 12 |     | (i <b>i</b> ) | May grant community service in lieu of the           |
| 13 |     |               | fine for subsequent offenses at the court's          |
| 14 |     |               | discretion;  |
| 15 | (3) | In additi     | on to the fine in paragraph (2), the court           |
| 16 |     | shall eit     | her:   |
| 17 |     | (A) Susp      | end the driver's license of the driver or of         |
| 18 |     | the           | registered owner for:                                |
| 19 |     | (i)           | Three months for the first conviction; and           |
| 20 |     | (ii)          | One year for any subsequent offense within a         |
| 21 |     |               | five-year period from a previous offense;            |
|    |     |               |  |





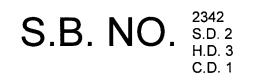
| 1  |     | provided that the driver or the registered owner       |
|----|-----|--|
| 2  |     | shall not be required to obtain proof of               |
| 3  |     | financial responsibility pursuant to section           |
| 4  |     | 287-20; or   |
| 5  |     | (B) Require the driver or the registered owner to      |
| 6  |     | keep a nonrefundable motor vehicle insurance           |
| 7  |     | policy in force for six months;                        |
| 8  | (4) | Any person subject to a fine under this section and    |
| 9  |     | who fails to timely pay the fine shall be given an     |
| 10 |     | opportunity to petition the court to demonstrate that  |
| 11 |     | the person's nonpayment or inability to pay is not     |
| 12 |     | wilful; provided that if the person petitions the      |
| 13 |     | court, the court shall make an individualized          |
| 14 |     | assessment of the person's ability to pay based upon   |
| 15 |     | the totality of the circumstances, including the       |
| 16 |     | person's disposable income, financial obligations, and |
| 17 |     | liquid assets; provided further that if the court      |
| 18 |     | determines that the person's nonpayment or inability   |
| 19 |     | to pay is not wilful, the court may enter an order     |
| 20 |     | that allows additional time for payment; reduces the   |
| 21 |     | amount of each installment; revokes the fee or fine,   |





| 1  |     | or unpaid portion thereof, in whole or in part; or     |
|----|-----|--|
| 2  |     | converts any outstanding fine to community service;    |
| 3  | (5) | Any person cited under this section shall have an      |
| 4  |     | opportunity to present a good faith defense, including |
| 5  |     | lack of knowledge or proof of insurance; provided that |
| 6  |     | the general penalty provision of this section shall    |
| 7  |     | not apply to:  |
| 8  |     | (A) Any operator of a motor vehicle owned by another   |
| 9  |     | person if the operator's own insurance covers          |
| 10 |     | such driving;  |
| 11 |     | (B) Any operator of a motor vehicle owned by that      |
| 12 |     | person's employer during the normal scope of that      |
| 13 |     | person's employment; or                                |
| 14 |     | (C) Any operator of a borrowed motor vehicle if the    |
| 15 |     | operator holds a reasonable belief that the            |
| 16 |     | subject vehicle is insured;                            |
| 17 | (6) | In the case of multiple convictions for driving        |
| 18 |     | without a valid motor vehicle insurance policy within  |
| 19 |     | a five-year period from any prior offense, the court,  |
| 20 |     | in addition to any other penalty, shall impose the     |
| 21 |     | following penalties:                                   |
|    |     |  |

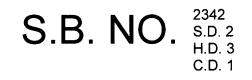
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| 1  |           | (A)   | Imprisonment of no more than thirty days;                               |
|----|-----------|-------|---|
| 2  |           | (B)   | Suspension or revocation of the motor vehicle                           |
| 3  |           |       | registration plates of the vehicle involved;                            |
| 4  |           | (C)   | Impoundment, or impoundment and sale, of the                            |
| 5  |           |       | motor vehicle for the costs of storage and other                        |
| 6  |           |       | charges incident to seizure of the vehicle, or                          |
| 7  |           |       | any other cost involved pursuant to section                             |
| 8  |           |       | 431:10C-301; or   |
| 9  |           | (D)   | Any combination of those penalties; and                                 |
| 10 | (7)       | Any   | violation as provided in paragraph (2)(B) shall                         |
| 11 |           | not   | be deemed to be a traffic infraction as defined by                      |
| 12 |           | chap  | ter 291D."  |
| 13 |           |       | PART II   |
| 14 | SECT      | ION 3 | . Section 431:10C-301, Hawaii Revised Statutes,                         |
| 15 | is amende | d by  | amending subsection (b) to read as follows:                             |
| 16 | "(b)      | A m   | otor vehicle insurance policy shall include:                            |
| 17 | (1)       | Liab  | ility coverage of not less than [ <del>\$20,000</del> ] <u>\$40,000</u> |
| 18 |           | per   | person, with an aggregate limit of [ <del>\$40,000</del> ]              |
| 19 |           | \$80, | 000 per accident, for all damages arising out of                        |
| 20 |           | acci  | dental harm sustained as a result of any one                            |
| 21 |           | acci  | dent and arising out of <u>the</u> ownership,                           |



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1 maintenance, use, loading, or unloading of a motor 2 vehicle; Liability coverage of not less than [\$10,000] \$20,000 3 (2) for all damages arising out of damage to or 4 destruction of property including motor vehicles and 5 including the loss of use thereof, but not including 6 7 property owned by, being transported by, or in the charge of the insured, as a result of any one accident 8 9 arising out of the ownership, maintenance, use, loading, or unloading, of the insured vehicle; 10 11 (3) With respect to any motor vehicle registered or 12 principally garaged in this State, liability coverage 13 provided therein or supplemental thereto, in limits 14 for bodily injury or death set forth in paragraph (1) 15 under provisions filed with and approved by the commissioner, for the protection of persons insured 16 17 thereunder who are legally entitled to recover damages 18 from owners or operators of uninsured motor vehicles because of bodily injury, sickness, or disease, 19 20 including death, resulting therefrom; provided that 21 the coverage required under this paragraph shall not



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| 1  |     | be aj | pplicable where any named insured in the policy    |  |  |
|----|-----|-------|--|--|--|
| 2  |     | shal  | l reject the coverage in writing; and              |  |  |
| 3  | (4) | Cove  | rage for loss resulting from bodily injury or      |  |  |
| 4  |     | deat  | h suffered by any person legally entitled to       |  |  |
| 5  |     | reco  | ver damages from owners or operators of            |  |  |
| 6  |     | unde  | rinsured motor vehicles. An insurer may offer the  |  |  |
| 7  |     | unde  | rinsured motorist coverage required by this        |  |  |
| 8  |     | para  | paragraph in the same manner as uninsured motorist |  |  |
| 9  |     | cove  | rage; provided that the offer of both shall:       |  |  |
| 10 |     | (A)   | Be conspicuously displayed so as to be readily     |  |  |
| 11 |     |       | noticeable by the insured;                         |  |  |
| 12 |     | (B)   | Set forth the premium for the coverage adjacent    |  |  |
| 13 |     |       | to the offer in a manner that the premium is       |  |  |
| 14 | ·   |       | clearly identifiable with the offer and may be     |  |  |
| 15 |     |       | easily subtracted from the total premium to        |  |  |
| 16 |     |       | determine the premium payment due in the event     |  |  |
| 17 |     |       | the insured elects not to purchase the option;     |  |  |
| 18 |     |       | and  |  |  |
| 19 |     | (C)   | Provide for written rejection of the coverage by   |  |  |
| 20 |     |       | requiring the insured to affix the insured's       |  |  |

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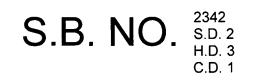
| 1  |           | signature in a location adjacent to or directly                   |
|----|-----------|---|
| 2  |           | below the offer."   |
| 3  | SECT      | ION 4. Section 431:10C-802, Hawaii Revised Statutes,              |
| 4  | is amende | d by amending subsection (a) to read as follows:                  |
| 5  | "(a)      | A peer-to-peer car-sharing program shall ensure                   |
| 6  | that duri | ng each car-sharing period, the shared car is                     |
| 7  | insured u | under a motor vehicle insurance policy that provides:             |
| 8  | (1)       | Primary insurance coverage for each shared car                    |
| 9  |           | available and used through a peer-to-peer car-                    |
| 10 |           | sharing program in amounts no less than [ <del>four times</del> ] |
| 11 |           | the amounts set forth in section 431:10C-301(b) for               |
| 12 |           | death, bodily injury, and property damage per                     |
| 13 |           | accident, and costs of defense outside the limits;                |
| 14 | (2)       | Primary insurance coverage for each shared car                    |
| 15 |           | available and used through a peer-to-peer car-                    |
| 16 |           | sharing program for personal injury protection                    |
| 17 |           | coverage that meets the minimum coverage amounts                  |
| 18 |           | required by section 431:10C-103.5; and                            |
| 19 | (3)       | The following optional coverages, which any named                 |
| 20 |           | insured may elect to reject or purchase, that                     |
| 21 |           | provides primary coverage for each shared car                     |





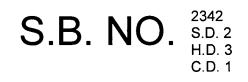
| 1  | available and used through a peer-to-peer car- |   |  |  |
|----|--|---|--|--|
| 2  | sharing program:                               |   |  |  |
| 3  | (A)  | Uninsured and underinsured motorist coverages   |  |  |
| 4  |  | as provided in section 431:10C-301, which shall |  |  |
| 5  |  | be equal to the primary liability limits        |  |  |
| 6  |  | specified in this section; provided that        |  |  |
| 7  |  | uninsured and underinsured motorist coverage    |  |  |
| 8  |  | offers shall provide for written rejection of   |  |  |
| 9  |  | the coverages as provided in section 431:10C-   |  |  |
| 10 |  | 301;  |  |  |
| 11 | (B)  | Uninsured and underinsured motorist coverage    |  |  |
| 12 |  | stacking options as provided in section         |  |  |
| 13 |  | 431:10C-301; provided that the offer of the     |  |  |
| 14 |  | stacking options shall provide for written      |  |  |
| 15 |  | rejection as provided in section 431:10C-301;   |  |  |
| 16 | (C)  | An offer of required optional additional        |  |  |
| 17 |  | insurance coverages as provided in section      |  |  |
| 18 |  | 431:10C-302; and                                |  |  |
| 19 | (D)  | In the event the only named insured under the   |  |  |
| 20 |  | motor vehicle insurance policy issued pursuant  |  |  |
| 21 |  | to this section is the peer-to-peer car-sharing |  |  |





| 1  | prog  | ram, the insurer or the peer-to-peer car-  |
|----|-------|--|
| 2  | shar  | ing program shall:                         |
| 3  | (i)   | Disclose the coverages in writing to the   |
| 4  |       | shared car driver;                         |
| 5  | (ii)  | Disclose to the shared car driver in       |
| 6  |       | writing that all optional coverages        |
| 7  |       | available may not have been purchased      |
| 8  |       | under sections 431:10C-301 and 431:10C-    |
| 9  |       | 302; and                                   |
| 10 | (iii) | Obtain a written acknowledgement from the  |
| 11 |       | shared car driver of receipt of the        |
| 12 |       | written disclosures required in paragraphs |
| 13 |       | (1) and (2). The standard disclosure       |
| 14 |       | forms used in paragraphs (1) and (2), and  |
| 15 |       | every modification of forms intended to be |
| 16 |       | used, shall be filed with the commissioner |
| 17 |       | within fifteen days of providing the       |
| 18 |       | disclosure to the shared car driver. The   |
| 19 |       | insurer or the peer-to-peer car-sharing    |
| 20 |       | program shall also send to the shared car  |
| 21 |       | driver every modified disclosure form      |





| 1  | within fifteen days of the filing of the                         |
|----|--|
| 2  | modified disclosure form and comply with                         |
| 3  | paragraph (3). The disclosures and                               |
| 4  | acknowledgement may be sent and received                         |
| 5  | by electronic means."  |
| 6  | PART III   |
| 7  | SECTION 5. The insurance commissioner shall issue a              |
| 8  | memorandum to solicit rate filings from motor vehicle insurers   |
| 9  | to reflect amendments made to section 431:10C-301(b)(1) and (2), |
| 10 | Hawaii Revised Statutes, by section 3 of this Act no later than  |
| 11 | January 1, 2025. Rate filings shall be due no later than         |
| 12 | July 1, 2025, and the relevant rate changes shall be effective   |
| 13 | for new and renewal policies on or after January 1, 2026.        |
| 14 | PART IV  |
| 15 | SECTION 6. Statutory material to be repealed is bracketed        |
| 16 | and stricken. New statutory material is underscored.             |
| 17 | SECTION 7. This Act shall take effect on July 1, 2024;           |
| 18 | provided that part II shall take effect on January 1, 2026.      |





#### Report Title:

Transportation; Motor Vehicles; Traffic Laws; Penalties; Insurance Minimums; Insurance Rates; Rate Filings; Insurance Coverage Requirements

#### Description:

Increases the penalties for violations of repeated driving without motor vehicle insurance and, beginning 1/1/2026, increases required motor vehicle insurance minimums. Clarifies the required coverage for shared cars that are made available through a peer-to-peer car-sharing program during the carsharing period. Requires the Insurance Commissioner to solicit rate filings from motor vehicle insurers. (CD1)

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

