
A BILL FOR AN ACT

RELATING TO MOPED INSURANCE.

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

1 SECTION 1. The purpose of this Act is to require that
2 persons operating mopeds in the State carry an insurance policy.

3 SECTION 2. Section 431:10C-304, Hawaii Revised Statutes,
4 is amended to read as follows:

5 "**§431:10C-304 Obligation to pay personal injury protection**
6 **benefits.** For purposes of this section, the term "personal
7 injury protection insurer" includes personal injury protection
8 self-insurers. Every personal injury protection insurer shall
9 provide personal injury protection benefits for accidental harm
10 as follows:

11 (1) Except as otherwise provided in section
12 431:10C-305(d), in the case of injury arising out of a
13 motor vehicle accident, the insurer shall pay, without
14 regard to fault, to the provider of services on behalf
15 of the following persons who sustain accidental harm
16 as a result of the operation, maintenance, or use of
17 the vehicle, an amount equal to the personal injury



1 protection benefits as defined in section
2 431:10C-103.5(a) payable for expenses to that person
3 as a result of the injury:

4 (A) Any person, including the owner, operator,
5 occupant, or user of the insured motor vehicle;

6 (B) Any pedestrian, including a bicyclist;

7 [~~(C)~~ Any user or operator of a moped as defined in
8 section 249-1;] or

9 [~~(D)~~] (C) Any user or operator of an electric foot
10 scooter as defined in section 249-1;

11 provided that this paragraph shall not apply in the
12 case of injury to or death of any operator or
13 passenger of a moped, motorcycle, or motor scooter as
14 defined in section 286-2 arising out of a motor
15 vehicle accident, unless expressly provided for in the
16 motor vehicle policy;

17 (2) Payment of personal injury protection benefits shall
18 be made as the benefits accrue, except that in the
19 case of death, payment of benefits under section
20 431:10C-302(a) (5) may be made immediately in a lump
21 sum payment, at the option of the beneficiary;



1 (3) (A) Payment of personal injury protection benefits
2 shall be made within thirty days after the
3 insurer has received reasonable proof of the fact
4 and amount of benefits accrued, and demand for
5 payment thereof. All providers shall produce
6 descriptions of the service provided in
7 conformity with applicable fee schedule codes;
8 (B) If the insurer elects to deny a claim for
9 benefits in whole or in part, the insurer shall,
10 within thirty days, notify the claimant in
11 writing of the denial and the reasons for the
12 denial. The denial notice shall be prepared and
13 mailed by the insurer in triplicate copies and be
14 in a format approved by the commissioner. In the
15 case of benefits for services specified in
16 section 431:10C-103.5(a) the insurer shall also
17 mail a copy of the denial to the provider; and
18 (C) If the insurer cannot pay or deny the claim for
19 benefits because additional information or loss
20 documentation is needed, the insurer shall,
21 within the thirty days, forward to the claimant



1 an itemized list of all the required documents.
2 In the case of benefits for services specified in
3 section 431:10C-103.5(a) the insurer shall also
4 forward the list to the service provider;

5 (4) Amounts of benefits that are unpaid thirty days after
6 the insurer has received reasonable proof of the fact
7 and the amount of benefits accrued, and demand for
8 payment thereof, after the expiration of the thirty
9 days, shall bear interest at the rate of one and one-
10 half per cent per month;

11 (5) No part of personal injury protection benefits paid
12 shall be applied in any manner as attorney's fees in
13 the case of injury or death for which the benefits are
14 paid. The insurer shall pay, subject to section
15 431:10C-211, in addition to the personal injury
16 protection benefits due, all attorney's fees and costs
17 of settlement or suit necessary to effect the payment
18 of any or all personal injury protection benefits
19 found due under the contract. Any contract in
20 violation of this provision shall be illegal and
21 unenforceable. It shall constitute an unlawful and



1 unethetical act for any attorney to solicit, enter into,
2 or knowingly accept benefits under any contract;

3 (6) Disputes between the provider and the insurer over the
4 amount of a charge or the correct fee or procedure
5 code to be used under the workers' compensation
6 supplemental medical fee schedule shall be governed by
7 section 431:10C-308.5; and

8 (7) Any insurer who violates this section shall be subject
9 to section 431:10C-117(b) and (c)."

10 SECTION 3. Section 431:10C-305, Hawaii Revised Statutes,
11 is amended by amending subsection (d) to read as follows:

12 "(d) The following persons are not eligible to receive
13 payment of personal injury protection benefits:

14 (1) Occupants of a motor vehicle other than the insured
15 motor vehicle;

16 (2) Operator or user of a motor vehicle engaging in
17 criminal conduct which causes any loss; or

18 (3) Operator of a moped, motorcycle, or motor scooter as
19 defined in section 286-2.



1 This subsection shall not preclude recovery in other capacities
2 under a motor vehicle insurance policy covering a vehicle which
3 the person did not occupy at the time of the accident."

4 SECTION 4. Section 431:10C-408, Hawaii Revised Statutes,
5 is amended by amending subsection (c) to read as follows:

6 "(c) Any person eligible for benefits under this part, and
7 who becomes eligible to file a claim or an action against the
8 mandatory bodily injury liability or property damage liability
9 policies, shall, upon the bureau's determination of eligibility,
10 be entitled to:

11 (1) The full personal injury protection benefits as if the
12 victim had been covered as an insured at the time of
13 the accident producing the accidental harm, but not
14 including an owner, operator, or passenger of a moped,
15 motorcycle, or motor scooter, as defined in section
16 286-2, or a pedestrian incurring accidental harm
17 arising out of a moped accident, motorcycle accident,
18 or motor scooter accident, as defined in section
19 431:10G-101; and

20 (2) The rights of claim and action against the insurer,
21 assigned under section 431:10C-403, with reference to



1 the mandatory bodily injury liability policy for
2 accidental harm, and with reference to the mandatory
3 property damage liability policy for property damage
4 sustained.

5 Any claims of an eligible assigned claimant against either
6 mandatory bodily injury liability or property damage liability
7 policies, or the basic personal injury protection policy, shall
8 be filed with the insurer assigned and shall be subject to all
9 applicable conditions and provisions of this subpart and subpart
10 A, except that the date of notification of the assignment shall,
11 where applicable, be substituted for the date of the accident
12 for purposes of section 431:10C-315."

13 SECTION 5. Chapter 431, Article 10G, Hawaii Revised
14 Statutes, is amended by amending its title to read as follows:

15 **"ARTICLE 10G**

16 **MOPED, MOTORCYCLE, AND MOTOR SCOOTER INSURANCE**"

17 SECTION 6. Section 431:10G-101, Hawaii Revised Statutes,
18 is amended as follows:

19 1. By adding two new definitions to be appropriately
20 inserted and to read:

21 "Moped" has the same meaning as in section 286-2.



1 "Moped accident" means an accident arising out of the
2 operation, maintenance, or use of a moped, but not involving a
3 motor vehicle."

4 2. By amending the definition of "accidental harm" to
5 read:

6 ""Accidental harm" means bodily injury, death, sickness, or
7 disease caused by a moped accident, motorcycle accident, or
8 motor scooter accident to a person."

9 3. By amending the definition of "owner" to read:

10 ""Owner" means a person who holds the legal title to a
11 moped, motorcycle, or motor scooter; except that when a moped,
12 motorcycle, or motor scooter is the subject of a security
13 agreement or lease with a term of not less than one year, with
14 the debtor or lessee having the right of possession, [~~the term~~
15 ~~owner~~] "owner" shall mean the debtor or lessee. Whenever
16 transfer of title to a moped, motorcycle, or motor scooter
17 occurs, the seller shall be considered the owner until delivery
18 of the executed title to the buyer. Upon delivery of the
19 executed title, the buyer holding the equitable title shall be
20 considered the owner."



1 SECTION 7. Section 431:10G-102, Hawaii Revised Statutes,
2 is amended to read as follows:

3 "§431:10G-102 **Conditions of operation and registration of**
4 **mopeds, motorcycles, and motor scooters.** No person shall drive
5 a moped, motorcycle, or motor scooter upon any public street,
6 road, or highway of this State at any time unless [~~such~~] the
7 moped, motorcycle, or motor scooter is insured at all times
8 under a liability policy as provided in section 431:10G-301;
9 provided that this article shall not apply to any [~~antique~~]
10 motorcycle or motor scooter that is an antique motor vehicle as
11 defined in section 249-1."

12 SECTION 8. Section 431:10G-103, Hawaii Revised Statutes,
13 is amended to read as follows:

14 "§431:10G-103 [~~Motorcycle~~] **Moped, motorcycle, or motor**
15 **scooter self-insurance.** The moped, motorcycle, or motor scooter
16 insurance required by section 431:10G-102 may be satisfied by
17 any owner of a moped, motorcycle, or motor scooter if:

18 (1) [~~Such~~] The owner provides proof of qualifications as a
19 self-insurer, and a surety bond or other securities
20 affording security substantially equivalent to that
21 afforded under a policy meeting the requirements of



1 section 431:10G-301 and providing coverage at all
2 times for the entire moped, motorcycle, or motor
3 scooter registration period, as determined and
4 approved by the commissioner under rules; and

5 (2) The commissioner is satisfied that in case of injury,
6 death, or property damage, any claimant would have the
7 same rights against [~~such~~] the owner as the claimant
8 would have had if a policy meeting the requirements of
9 section 431:10G-301 had been applicable to [~~such~~] the
10 moped, motorcycle, or motor scooter."

11 SECTION 9. Section 431:10G-104, Hawaii Revised Statutes,
12 is amended by amending subsection (a) to read as follows:

13 "(a) Any person seeking to obtain the liability coverage
14 required by this part after June 7, 1989, shall first:

15 (1) Have obtained a valid moped, motorcycle, or motor
16 scooter license; or

17 (2) Have obtained a valid moped, motorcycle, or motor
18 scooter learner's permit and, for a person operating a
19 motorcycle or motor scooter, have taken and passed a
20 motorcycle education course approved by the department
21 of transportation."



1 SECTION 10. Section 431:10G-105, Hawaii Revised Statutes,
2 is amended to read as follows:

3 "**§431:10G-105 Tort liability.** (a) With respect to
4 accidental harm incurred in or arising out of a moped accident,
5 motorcycle accident, or motor scooter accident, tort liability
6 is not abolished.

7 (b) Any owner or operator of a moped, motorcycle, or motor
8 scooter involved in a motor vehicle accident as defined in
9 section 431:10C-103 and who incurs accidental harm as defined in
10 section 431:10C-103, including [~~such~~] the person's
11 representative or legal guardian, shall have a cause of action
12 in tort as provided in section 431:10C-306."

13 SECTION 11. Section 431:10G-106, Hawaii Revised Statutes,
14 is amended to read as follows:

15 "**§431:10G-106 Verification of insurance.** Every insurer
16 shall issue to each of its insureds a paper or electronic proof
17 of insurance card for each moped, motorcycle, or motor scooter
18 for which a liability policy under this article is written. The
19 electronic proof of insurance card may be accessed directly
20 through the licensed insurer's website, application, or
21 database. The proof of insurance card shall show the following:



1 (1) Name, make, year, and factory or serial number of the
2 moped, motorcycle, or motor scooter; provided that
3 insurers of five or more mopeds, motorcycles, or motor
4 scooters that are under common registered ownership
5 and used in the regular course of business shall not
6 be required to indicate the name, make, year, and the
7 factory or serial number of each moped, motorcycle, or
8 motor scooter;

9 (2) Policy number;

10 (3) Names of the insured and the insurer; and

11 (4) Effective dates of coverage including the expiration
12 date.

13 The proof of insurance card shall be carried on, or accessible
14 on a mobile electronic device, as defined in section 291C-137,
15 by the person operating the insured moped, motorcycle, or motor
16 scooter at all times and shall be exhibited to a law enforcement
17 officer upon demand."

18 SECTION 12. Section 431:10G-108, Hawaii Revised Statutes,
19 is amended to read as follows:

20 "**§431:10G-108 Penalties.** Any person who violates this
21 article shall be subject to a citation by the police and shall



1 be subject to a nonsuspendable fine of [~~not~~] no less than \$100
2 [~~not~~] and no more than \$1,000, thirty days imprisonment, a one
3 year driver's license suspension, or any combination thereof,
4 for each violation.

5 Any person cited under this section shall have an
6 opportunity to present a good faith defense, including but not
7 limited to lack of knowledge or proof of insurance. The general
8 penalty provision of this section shall not apply to:

- 9 (1) Any operator of a moped, motorcycle, or motor scooter
10 owned by another person if the operator's own
11 insurance covers such driving;
- 12 (2) Any operator of a moped, motorcycle, or motor scooter
13 owned by that person's employer during the normal
14 scope of that person's employment; or
- 15 (3) Any operator of a borrowed moped, motorcycle, or motor
16 scooter if the operator holds a reasonable belief that
17 the subject vehicle is insured."

18 SECTION 13. Section 431:10G-201, Hawaii Revised Statutes,
19 is amended by amending its title and subsection (a) to read as
20 follows:



1 "§431:10G-201 Making of moped, motorcycle, and motor
2 scooter insurance rates. (a) All premium rates for moped,
3 motorcycle, and motor scooter insurance shall be made in
4 accordance with the following provisions:

5 (1) Rates shall not be excessive, inadequate, or unfairly
6 discriminatory;

7 (2) Due consideration shall be given to:

8 (A) Past and prospective loss experience within and
9 outside this State, catastrophe hazards, if any,
10 reasonable margin for profit, and contingencies,
11 dividends, savings, or unabsorbed premium
12 deposits allowed or returned by insurers to their
13 policyholders, members, or subscribers;

14 (B) Past and prospective expenses both country-wide
15 and those specially applicable to this State in
16 the sale and administration of moped,
17 [~~motorcycles~~] motorcycle, and motor [~~scooters~~]
18 scooter insurance; and

19 (C) Investment income from reserves, unearned
20 insurance premiums, and other unearned proceeds
21 received on account of moped, motorcycle, and



1 motor scooter insurance sold, and all other
2 factors that may be deemed relevant, if they are
3 established to have a probable effect upon
4 losses, expense, or rates, [~~such as~~] including
5 but not limited to types of vehicles,
6 occupations, and involvement in past accidents;

7 (3) The systems of expense provisions included in the
8 rates for use by any insurer or group of insurers may
9 differ from those of other insurers or groups of
10 insurers to reflect the requirements of the operating
11 methods of any insurer or group with respect to any
12 class of insurance, or with respect to any subdivision
13 or combination thereof for which subdivision or
14 combination separate expense provisions are
15 applicable; and

16 (4) Risks may be grouped by classifications for the
17 establishing of rates and minimum premiums.
18 Classification rates may be modified to produce rates
19 for individual risks in accordance with rating plans
20 which establish standards for measuring variations in
21 hazards or expense provisions, or both. The standards



1 may measure any differences among risks that can be
2 demonstrated to have a probable effect upon losses or
3 expenses."

4 SECTION 14. Section 431:10G-202, Hawaii Revised Statutes,
5 is amended by amending subsection (a) to read as follows:

6 "(a) Every insurer shall file with the commissioner every
7 manual of classification, rule, rate, rating plan, designation
8 of rating territories, or standard for moped, motorcycle, or
9 motor scooter insurance which it proposes to use. Every filing
10 shall state the proposed effective date of the filing and the
11 character and extent of the coverage contemplated."

12 SECTION 15. Section 431:10G-206, Hawaii Revised Statutes,
13 is amended to read as follows:

14 "**§431:10G-206 Rate administration.** Except as otherwise
15 provided in this article, the commissioner shall implement and
16 evaluate moped, motorcycle, and motor scooter insurance rates in
17 compliance with article 14."

18 SECTION 16. Section 431:10G-301, Hawaii Revised Statutes,
19 is amended as follows:

20 1. By amending its title and subsection (a) to read:



1 "§431:10G-301 Required moped, motorcycle, and motor
2 **scooter policy coverage.** (a) An insurance policy covering a
3 moped, motorcycle, or motor scooter shall provide insurance in
4 the following amounts to pay, on behalf of the owner or any
5 operator of the insured moped, motorcycle, or motor scooter,
6 sums that the owner or any operator may legally be obligated to
7 pay for injury, death, or damage to the property of others,
8 except property owned by, being transported by, or in charge of
9 the insured that arise out of the ownership, operation,
10 maintenance, or use of the moped, motorcycle, or motor scooter:

11 (1) Liability coverage of [~~not~~] no less than \$20,000 per
12 person, with an aggregate limit of \$40,000 per
13 accident, for all damages arising out of accidental
14 harm sustained as a result of any one accident; and

15 (2) Liability coverage of [~~not~~] no less than \$10,000 for
16 all damages arising out of injury to or destruction of
17 property, including mopeds, motorcycles, or motor
18 scooters and including the loss of use thereof, but
19 not including property owned by, being transported by,
20 or in the charge of the insured, as a result of any
21 one accident."



1 2. By amending subsection (c) to read:

2 "(c) Any operator or passenger of a moped, motorcycle, or
3 motor scooter as defined in section 286-2 who receives injuries
4 or dies in a motor vehicle accident may not claim personal
5 injury protection benefits under a motor vehicle insurance
6 policy, unless expressly provided for in the motor vehicle
7 policy."

8 SECTION 17. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 18. This Act shall take effect on July 1, 3000.



Report Title:

Department of Commerce and Consumer Affairs; Required Insurance;
Mopeds

Description:

Requires that moped operators carry an insurance policy by incorporating mopeds into the insurance laws governing motorcycles and motor scooters, including with respect to provisions concerning required licensure, the relationship with tort law, proof of insurance card, penalties, rate regulation, and minimum coverage levels. Makes conforming amendments. Effective 7/1/3000. (HD1)

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

