

ACT 214

S. B. 473.

A Bill for an Act Relating to the Hawaii Safety Program and Making an Appropriation Therefor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Declaration of purpose. Deaths of persons and injuries to them and damage to property with the other losses suffered on account of highway traffic accidents are of grave concern to the State and its citizens as well as to the federal government. The legislature finds and declares that it is in the public interest that the State initiate, coordinate and accelerate every available means to decrease the fatalities, injuries, damages and losses resulting from highway traffic accidents.

SECTION 2. The Revised Laws of Hawaii 1955 is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER
HIGHWAY SAFETY

PART I. GENERAL PROVISIONS

Sec.-1. This chapter may be cited as the “Hawaii Highway Safety Act.”

Sec.-2. Definitions. The following terms whenever used and referred to in this chapter shall have the following meanings unless a different meaning is clearly apparent from the context:

“Bus” means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons.

“Chauffeur” means every person who is employed by another for the principal purpose of driving a motor vehicle and every person who drives a motor vehicle when in use for the transportation of persons or property for compensation.

“Chief of police” means the chief of police of each county.

“Driving instructor” means every person who, for compensation, instructs another person in the rudiments and mechanics of the operation of a motor vehicle.

“Examiner of chauffeurs” means the person or persons appointed under section ...-110.

“Executive officer” means the mayor or county chairman of each county.

“Farm tractor” means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

“Legal owner” includes a person who holds unencumbered title to a vehicle or is a secured party under a security interest in a vehicle.

“Motorcycle” means every motor vehicle having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor.

“Motor scooter” means every motorcycle, including every motor-driven cycle, with a motor which produces not more than five horsepower.

“Motor vehicle” means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

“Operator” means every person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed or pushed by a motor vehicle.

“Owner” or “registered owner” includes a legal owner of a vehicle where there is no security interest held by anyone on the vehicle, a buyer under a purchase money security interest, or a debtor under any security interest.

“Passenger car” means every motor vehicle, except motorcycles and motor scooters, designed for carrying ten passengers or less and used for the transportation of persons.

“Pole trailer” means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a

reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

“Semitrailer” means a trailer so constructed that a substantial part of its weight rests upon the truck tractor by which it is drawn.

“State,” except where reference is clearly to another state, territory or possession of the United States, means the State of Hawaii.

“Title state or county” means any state or any county in any state which issues certificates of title and registration and notes liens and other encumbrances thereon.

“Tractor-semitrailer combination” means a truck tractor in use together with a semitrailer.

“Trailer” means a vehicle designed for carrying persons or property and for being drawn by a motor vehicle.

“Treasurer” means the treasurer or director of finance of a county.

“Truck” means a motor vehicle designed, used, or maintained primarily for the transportation of property.

“Truck tractor” means a truck designed and used primarily for drawing other vehicles and not so constructed as to carry a load to other than a part of the weight of the vehicle and load so drawn.

“Truck-trailer combination” means a truck in use together with a trailer.

“Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

Sec.3. Powers and duties of the governor. The governor, in addition to other duties and responsibilities conferred upon him by the constitution and laws of the State, may contract and do all other things necessary in behalf of the State to promote traffic safety. To that end he shall coordinate the activities of the State and its counties.

The governor may delegate duties and functions conferred upon him by this Act to the state highway safety coordinator appointed under the authority of section ...-4.

Sec.4. Position of state highway safety coordinator. The governor shall appoint, without regard to the provisions of chapters 3 and 4, a state highway safety coordinator who shall serve at the pleasure of the governor. The highway safety coordinator shall be experienced in the field of highway safety and shall serve as the state coordinator of highway safety programs, activities, and research. His salary shall be within the range of salaries paid deputy directors of the departments of the state government. He shall be a member of the state employees' retirement system and shall be eligible to receive the benefits of any state or federal employee benefit program generally applicable to officers and employees of the State.

Sec.5. State highway safety council. There is established the Hawaii highway safety council. The state highway safety coordinator shall serve as its chairman. Together with the highway safety coordinator, the fol-

lowing or their designated representatives shall be members of the council: the chief justice, the attorney general, the director of health, the director of transportation, the superintendent of education, the president of the university of Hawaii, the chairman of each of the county highway safety councils established under section . . .-6, and not more than twenty other persons who shall be appointed by the governor on the basis of their interest in highway safety.

The state highway safety council shall advise the governor on matters relating to the programs and activities of the State in the field of highway safety.

Except for the state highway safety coordinator, the members of the council shall serve without pay but shall be entitled to reimbursement for necessary expenses while attending meetings and while in discharge of their duties.

Sec. -----6. County traffic or highway safety councils. There is established in each county a county traffic or highway safety council. The respective boards of supervisors or the city council may make appropriations to meet the necessary expenses of their respective traffic or highway safety councils.

The following or their designated representatives shall be members of a county traffic or highway safety council: the mayor or county chairman; the chief of police; the prosecuting attorney, public prosecutor, corporation counsel or county attorney; the traffic engineer, chairman of the traffic commission or safety program coordinator; and not more than fifteen other persons residing in the county who shall be appointed by the mayor or county chairman on the basis of their interest in highway safety and their knowledge of local conditions.

The county traffic or highway safety council shall advise the mayor or county chairman on matters relating to highway safety.

Sec. -----7. County highway safety programs. Whenever it is determined by the governor to be in the public interest, he may delegate highway safety programs or portions thereof to the counties; provided that the program of each county is approved by the governor. Delegations under this section shall be made by gubernatorial proclamation.

Sec. -----8. Rules and regulations. In order to decrease the deaths, injuries, damage, and losses resulting from highway traffic accidents, the state highway safety coordinator shall, subject to the requirements of chapter 6C, adopt rules and regulations dealing with identification and surveillance of accident locations; highway design, construction and maintenance; and traffic control devices.

PART II. INSPECTION OF VEHICLES

Sec. -----20. Vehicles without required equipment or in unsafe condition. No person shall drive or cause to move on any highway any motor vehicle, trailer, semitrailer, or pole trailer, or any combination thereof, unless the equipment thereon is in good working order and adjustment as required in this part so as not to endanger the driver or other occupant or any person upon the highway.

Sec. -----21. Inspection by officers of the police department. (a) The chief of police or any police officer of any county may, at any time when he has reasonable cause to believe that a vehicle is unsafe or not equipped as required by law, require the owner or driver of the vehicle to submit the vehicle to an inspection or make the necessary corrections or repairs.

(b) If the vehicle is found to be in an unsafe condition or if any required part or equipment is not present or if any required part or equipment is present but not in proper repair, the officer shall issue a citation to the owner or driver stating the reasons that the vehicle is deemed unsafe and shall require that a new certificate of inspection as provided in section . . .-25 be obtained within five days or that the defect be cured.

(c) If upon inspection, the chief of police or any police officer determines that any vehicle is in such unsafe condition as to constitute a menace to the public and cannot reasonably be restored to a safe condition as required in this part, he shall remove the sticker which signifies the certificate of inspection and inform the treasurer who shall forthwith suspend the registration of the vehicle and give notice of the suspension to its owner. Whenever the treasurer has suspended the registration of any vehicle under this part, the owner of the vehicle shall immediately surrender and forward to the treasurer the certificate of registration and the license plates last issued upon registration of the vehicle for the current year.

(d) Any person aggrieved by this section shall have the right to a hearing before a magistrate of the district in which he is cited within five days. The magistrate shall determine whether the chief of police or any police officer reasonably performed his duties hereunder and shall make any appropriate order.

Sec. -----22. Responsibility for compliance. (a) Every owner or driver, upon receiving a citation as provided in section . . .-21(b), shall comply therewith and shall within five days secure an official certificate of inspection or make the necessary corrections or repairs, or driver requests a hearing as provided in section . . .-21(d).*

(b) No person shall operate any vehicle after receiving a citation with reference thereto as provided in section . . .-21(b), except that if the driver is authorized to do so by the police officer, he may return the vehicle to his residence or place of business or the residence or place of business of the owner of the vehicle, or to an automotive repair shop, if within a distance of twenty miles, until a certificate of inspection is obtained or the necessary corrections or repairs are made.

Sec. -----23. Registered owner's responsibility; registration plates as prima facie evidence as to the fault of the registered owner. In any proceeding for violation of this part, the registered owner of a vehicle shall be deemed responsible for the unsafe condition of the vehicle.

Sec. -----24. Operation of a vehicle without a certificate of inspection. Whoever operates, permits the operation of, causes to be operated or parks any vehicle on a public highway without a current official cer-

* So in original.

tificate of inspection, issued under section . . .-25(d), shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Sec. -----25. Certificates of inspection. (a) The following vehicles shall be certified as provided in subsection(e) once every six months:

- (1) motor vehicles ten years of age or older,
- (2) ambulances,
- (3) trucks, truck tractors, semitrailers, trailers, or pole trailers having a rated load capacity of one ton or more,
- (4) buses.

(b) All other vehicles, except those in subsections (c) and (d), shall be certified as provided in subsection (e) every twelve months.

(c) Any vehicle which has been involved in an accident, when it is determined by a police officer that the vehicle's equipment has been damaged so as to render the vehicle unsafe, shall be so certified before it is operated again.

(d) Every vehicle shall be certified prior to the issuance of a temporary or permanent registration by the treasurer and prior to the transfer of any registration; provided, however, (1) every vehicle sold or to be sold as a new or used car and not operated on a public highway, shall be certified or carry a current certificate of inspection prior to transfer of registration to the buyer thereof; and (2) that this requirement shall not apply to the release or transfer of a security interest in a motor vehicle which carries a current certificate of inspection.

(e) Upon application for a certificate of inspection to be issued on a vehicle, an inspection as prescribed by the state highway coordinator under subsection (f) shall be conducted on the vehicle and if the vehicle is found to be in a safe operating condition, a certificate of inspection shall be issued upon payment of a fee to be determined by the board of supervisors or council of each county. A sticker, authorized by the state highway coordinator, shall be affixed to the vehicle at the time a certificate of inspection is issued.

(f) The state highway safety coordinator shall adopt necessary rules and regulations for the administration of inspections, the issuance of certificates of inspection and the acceptance of certificates of inspection issued in other jurisdictions.

(g) This part shall not apply to any motor vehicle which is subject to the rules and regulations of the public utilities commission, or any successor agency, governing safety of operation and equipment; provided that said rules and regulations impose standards of inspection at least as strict as those imposed under subsection (f) by the state highway safety coordinator, and that certification is required at least as often as provided in subsections (a), (b), (c), and (d).

Sec. -----26. Permits to operate official inspection stations. (a) The chief of police shall issue permits for and furnish instructions and all forms to official inspection stations. The stations shall operate in the manner directed by the chief of police pursuant to standards established by the state highway safety coordinator.

(b) Application for an official inspection station permit shall be made

upon an official form and shall be granted only when the chief of police is satisfied that the station is properly equipped and has competent personnel to make the required inspections. Before issuing a permit, the chief of police shall require the applicant to file a bond in the amount of \$2,000 assuring that he will make compensation for any damage to a vehicle during an inspection due to negligence on his part or that of his employees.

(c) A permit for an official station shall not be assigned or transferred or used at any location other than that designated by the chief of police and every said permit shall be posted in a conspicuous place at the location so designated.

Sec. -----27. Suspension or revocation of permits. The chief of police shall supervise and cause inspections to be made of official inspection stations and shall suspend or revoke and require the surrender of the permit issued to a station which he finds is not properly conducting inspections. The chief of police shall maintain and post at the police department lists of all stations holding permits and those whose permits have been suspended or revoked.

Sec. -----28. Improper representation as official inspection station. Any person who shall in any manner represent that the business operated at any location is an official inspection station without a permit issued by the chief of police under section ...-26, or any person other than a person operating an inspection station under a permit granted by the chief of police who issues a certificate of inspection shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Sec. -----29. False certificates. Any person who makes, issues, or knowingly uses any imitation or counterfeit of an official certificate of inspection, or any person who displays or causes or permits to be displayed upon any vehicle any certificate of inspection knowing the same to be issued for another vehicle or issued without an inspection having been made or issued without authority as provided herein shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

PART IV. SAFETY EQUIPMENT

Sec. -----96. Motorcycle, motor scooter, etc.; protective devices. No person shall:

(1) Operate a motorcycle or motor scooter on any highway in the State unless he and any passenger he carries on the motorcycle or motor scooter wears (A) a safety helmet securely fastened with a chin strap; (B) safety glasses, goggles, or a face shield, in the case of a motorcycle or motor scooter that is not equipped with windscreens or windshields; and (C) any other protective devices required by rules and regulations adopted by the state highway safety coordinator.

(2) Lease or rent a motorcycle or motor scooter to another person unless he furnishes (A) a safety helmet; (B) safety glasses, goggles, or a face shield, in the case of a motorcycle or motor scooter that is not equipped with windscreens or windshields; and (C) any other protective devices required by

the rules and regulations adopted by the state highway safety coordinator for the use of the person or persons intending to operate or ride as a passenger on the motorcycle or motor scooter; provided that any person to whom a motorcycle or motor scooter is leased or rented may furnish for his own use the protective devices required by this part.

(3) Sell or offer for sale or furnish any safety helmet, safety glasses, goggles, face shield, windscreen, windshield, or other protective devices represented to meet the requirements of this part unless the device meets the specifications and requirements established by rules and regulations adopted by the state highway safety coordinator.

Sec. -----97. Whoever violates this part shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

PART V. DRIVER TRAINING SCHOOL AND DRIVER INSTRUCTORS

Sec. -----100. Licenses. (a) No person or corporation shall operate a driver training school or give instructions for hire in the driving of a motor vehicle without obtaining from the executive officer or his designated representative annually a license to operate a driver training school or to give instruction, each license expiring one year after the date of its issuance; provided that the department of education shall be exempt from the requirement of the licenses under this part.

(b) No driver training school operator's license shall be issued to an applicant: (1) unless the department of education first determines that the applicant has the necessary instructional equipment and certifies the applicant pursuant to Act 42, Session Laws of Hawaii 1966; (2) if the applicant, one or more of the partners in an applicant partnership, or one or more officers or directors in an applicant corporation formerly held a driver training school operator's license which was revoked or suspended and never reinstated; (3) if the application contains any statements known by the applicant to be false; or (4) if the application conceals any fact known to be material; and (5) unless the applicant pays a fee of \$25.

(c) No driving instructor's license shall be issued to an applicant: (1) unless he is of good moral character, has attained the age of majority, is certified as an instructor in driver education and training by the department of education pursuant to Act 42, Session Laws of Hawaii 1966, is physically able to operate safely a motor vehicle, is able to train others in the operation of a motor vehicle and holds an Hawaii operator's license for the category of vehicle that he shall use in his instruction; or (2) if he formerly held a license in the state as driving instructor, which license was revoked or suspended and never reinstated; or (3) if he has been convicted of a crime involving moral turpitude; or (4) if he knowingly makes a false statement or conceals a material fact in his application; and (5) unless the applicant pays a fee of \$10.

Sec. -----101. Insurance requirements. Every person, partnership, or corporation offering driver training to the public shall maintain bodily injury and property damage liability insurance on motor vehicles while being used in driver training, insuring against the liability of the driver training

school operator, the driving instructor, and any person taking instruction, in the following minimum amounts: (1) comprehensive public liability insurance in the amount of \$100,000 for one person and \$300,000 for one accident, and (2) comprehensive property damage insurance of \$10,000 per accident, provided that the state highway safety coordinator may, by rules and regulations, set higher limits.

Evidence of such insurance coverage in the form of a certificate from the insurance carrier shall be filed with the executive officer or his designated representative and the certificate shall name the county as co-insured and shall stipulate that the insurance shall not be canceled except upon ten days' prior written notice to the executive officer or his designated representative.

Sec. -----102. Responsibility for maintenance of vehicles. Every licensee under this part shall be responsible for the maintenance of all vehicles used in driver training in safe mechanical condition at all times.

Sec. -----103. Cancellation, suspension, and revocation of licenses. The executive officer or his designated representative may cancel, suspend or revoke a license issued under this part:

(1) When he is satisfied that the licensee has become unable to meet the requirements for the issuance of the type of license held.

(2) When the licensee permits fraud or engages in fraudulent practices or induces or countenances fraud or fraudulent practices on the part of an applicant for an operator's or chauffeur's license.

(3) When the licensee fails to comply with this part or any regulations or requirements adopted by the state highway safety coordinator pursuant to this part.

(4) When the licensee represents himself as an agent or employee of the police department or uses advertising designed to or which would reasonably have the effect of leading persons to believe that the licensee is in fact an employee or representative of the police department.

(5) When the licensee advertises in any manner or by any means whatever, any statement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

(6) When the licensee has been convicted of a felony or any other crime which manifests a disability or unfitness to perform properly the licensee's occupational duties; provided that when conviction of a crime is the basis of suspension, revocation, or cancellation, the executive officer or his designated representative shall make a specific finding as to the manner in which the conviction manifests occupational disability or unfitness, which finding shall be incorporated in the order suspending or revoking the license.

Sec. -----104. Hearings; cancellation, suspension, or revocation. (a) Every licensee is entitled to notice and hearing prior to cancellation, suspension, or revocation of his license.

(b) Any cancellation, suspension, or revocation of a license may be appealed to the circuit court of the circuit in which the license is issued. No appeal shall be heard unless a petition is filed with the court within twenty

days of the cancellation, suspension, or revocation of the license. The appeal shall not postpone or otherwise affect the effective date of cancellation, suspension, or revocation.

Sec. -----105. Continuation of business of deceased licensee. The executive officer or his designated representative may authorize the continuation of the operation of a driving school after the death of the licensee, if the certification of the school is not revoked by the department of education, for a period necessary to effect a transfer of the license to another person.

Sec. -----106. Penalty. Any person who operates a driver training school or gives instructions for hire in the driving of a motor vehicle without a current license issued under section ...-100 shall be fined not more than \$500 or imprisoned not more than six months, or both.

PART VI. MOTOR VEHICLE OPERATOR AND CHAUFFEUR LICENSING

Sec. -----111. Licensing. (a) No person, except one exempted under section ...-114 or one who holds an instruction permit under ...-119, shall operate a category of motor vehicles listed below without first being examined as provided in section ...-117 and being duly licensed by the examiner of chauffeurs as a qualified operator of that category of motor vehicles:

- (1) motor scooters;
- (2) motorcycles and motor scooters;
- (3) passenger cars of any gross weight and trucks having a registered gross weight of less than six thousand pounds;
- (4) all of the motor vehicles in category (3) and trucks having a registered gross weight of six thousand pounds or more, other than tractor-semi-trailer combinations and truck-trailer combinations;
- (5) all of the motor vehicles in categories (3) and (4) and buses;
- (6) all of the motor vehicles in categories (3), (4) and (5) and tractor-semitrailer combinations, and
- (7) all of the motor vehicles in categories (3), (4), (5) and (6) and truck-trailer combinations.

(b) No person, even if he is licensed to operate a motor vehicle in any of the categories provided in subsection (a), shall operate the motor vehicle for compensation, unless he is eighteen years of age or older and is examined as provided in section ...-117, satisfies additional requirements as established by the examiner of chauffeurs under section ...-112 and is duly licensed by the examiner of chauffeurs as a qualified chauffeur of that category of motor vehicles.

(c) No person under the age of twenty years shall be issued a license to operate or shall operate any motor vehicle which is used in the transport of persons for compensation or any bus or any motor vehicle used as a bus.

Sec. -----112. Restrictions on operator's and chauffeur's licenses; rules and regulations. The examiner of chauffeurs may adopt rules and regulations restricting the use of operators' and chauffeurs' licenses in any manner he may deem necessary for the safety and welfare of the traveling public and may impose restrictions with respect to the type of equipment or

special mechanical control devices required on the motor vehicle operated by the licensee appropriate to the driving ability of the licensee. Any restrictions shall be indicated on the license issued.

Sec. -----115. Expiration of licenses; renewals. (a) Every operator's license issued under this part, whether an original issuance or a renewal, shall expire on the fourth birthday of the licensee following the date of its issuance, unless sooner revoked or suspended; provided that the license shall expire on the second birthday of the licensee following its issuance if at that time the licensee:

- (1) Is sixty-five years of age or older;
- (2) Has been convicted of violations of the traffic laws of the State and of county traffic ordinances in the previous two years which, under the provisions of section . . .-137, total nine points;
- (3) Is twenty-four years of age or younger; or
- (4) Exhibits a physical condition or conditions which the examiner of chauffeurs reasonably believes has impaired the operator's ability to drive, unless the licensee: (1) obtains a certificate from a licensed physician that his physical condition or conditions do not impair his ability to drive; or (2) is able to correct the physical impairment, or by using a vehicle adapted to overcome such physical impairment is to the satisfaction of the examiner of chauffeurs able to drive safely.

(b) The examiner of chauffeurs may accept application for a renewal of an operator's license made not more than six months prior to the date of expiration. If renewal is not applied for within ninety days after expiration of the license, the application for renewal shall be considered an application for a new license and the applicant shall be examined as provided in section . . .-117. If any person is out of the State during the entire period in which he may apply for renewal, the examiner of chauffeurs may accept his application for renewal made not more than thirty days after his return to the State.

(c) Every chauffeur's license issued under this part shall expire one year after issue and shall be renewable on or before the date of expiration, unless sooner revoked or suspended.

Sec. -----116. Renewals; requirements. (a) Every operator's license shall be renewable as provided in section . . .-115 upon payment of a fee to be determined by the board of supervisors or council of each county; provided that the examiner of chauffeurs shall administer such physical examinations which the state highway safety coordinator deems necessary to determine an operator's fitness to continue to operate a motor vehicle.

(b) Every chauffeur's license shall be renewable as provided in section . . .-115 upon payment of a fee to be determined by the board of supervisors or council of each county; provided that the examiner of chauffeurs shall administer such examinations as the state highway safety coordinator deems necessary to determine the fitness of a licensee to continue as a chauffeur.

Sec. -----118. General provision governing the issuance of licenses to operators and chauffeurs. Upon payment of the required fee and upon demonstrating his ability to operate a certain category or categories of motor

vehicles to the satisfaction of the examiner of chauffeurs, an applicant for an operator's or chauffeur's license shall be issued a single license of a design approved by the highway safety coordinator upon which is made a notation of the category or categories of motor vehicles he may operate and any restrictive provisions to which the license is subject.

The provisions of chapter 254 and any other provisions of this chapter notwithstanding, no operator's or chauffeur's license or instruction permit shall be issued or renewed under any of the provisions hereof, where the examiner of chauffeurs is notified by the magistrate, traffic violations bureaus of the district courts or the judge of the circuit court of* the applicant has failed to respond to a traffic citation or summons for the violation of any traffic laws of the State or county or of this chapter and the same remains delinquent and outstanding.

Sec.-119. Instruction permits. (a) Any person who, except for his lack of instruction in operating a motor vehicle, would be qualified to obtain an operator's license issued under this part may apply for a temporary instruction permit at the office of the examiner of chauffeurs in the county in which the applicant resides.

The examiner of chauffeurs shall, within ten days of the filing of the application, examine every applicant for an instruction permit. The examination shall include tests of the applicants:

(1) eyesight and other physical or mental capabilities to determine if he is capable of operating a motor vehicle;

(2) understanding of highway signs regulating, warning, and directing traffic; and (3) knowledge of the traffic laws, ordinances or regulations of the State and the county where he resides or intends to operate a motor vehicle.

(c) If he is satisfied that the applicant is qualified to receive an instruction permit, the examiner of chauffeurs shall issue the permit entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle upon the highways for a period of ninety days; provided that an applicant who is registered in a driver training course shall be issued a temporary instruction permit for the duration of the course and the termination date of the course shall be entered on the permit.

(d) Except when operating a motor scooter or motorcycle, the holder of a temporary instruction permit shall be accompanied by a person licensed as an operator or chauffeur of the category of motor vehicles in which the motor vehicle which is being operated belongs. The licensed person shall occupy a seat as near the permit holder as is practical while the motor vehicle is being so operated.

(e) No holder of a temporary instruction permit shall operate a motorcycle or a motor scooter during hours of darkness or carry any passengers.

Sec.-122. Release from liability. Any person who has signed the application of a minor for an instruction permit or operator's license may file with the examiner of chauffeurs a verified written request that the permit

* So in original.

or license of the minor be canceled, together with the permit or license issued. Upon receipt of the request, the examiner of chauffeurs shall cancel the permit or license of the minor and the person who has signed the application of the minor shall be relieved from the liability imposed under this part on account of any subsequent negligence or willful misconduct of the minor in operating a motor vehicle. Nothing herein contained shall be construed to limit the liability of parents for the torts of their child as provided in chapter 330.

Sec. -----123. Revocation of license or instruction permit upon death of person signing minor's application. The examiner of chauffeurs upon receipt of satisfactory evidence of the death of a person who signed the application of a minor for an instruction permit or a license shall cancel the permit or license and shall not issue a new permit or license until such time as a new application duly signed and verified shall be made as required by this part. Upon canceling the permit or license, the examiner of chauffeurs shall notify the minor to surrender the permit or license. If the death occurs after the minor has reached majority, this section shall not apply.

Sec. -----126. Duplicate permits, licenses, and badges. The holder of an instruction permit or operator's or chauffeur's license or chauffeur's badge may upon payment of the reasonable cost of its issuance obtain a duplicate; provided that the holder shall surrender the original permit, license, or badge or furnish satisfactory proof of loss or destruction of the same.

The chief of police or a police officer shall notify a holder that his permit or license is illegible and that he shall within ten days surrender his license and apply for a duplicate. Upon failure to comply with a notice to surrender an illegible license and apply for a duplicate, the person to whom the permit or license is issued shall be subject to the punishment in section . . .-145.

Sec. -----128. Authority of examiner of chauffeurs to suspend or revoke licenses. The examiner of chauffeurs may suspend any operator's or chauffeur's license without hearing when he has reasonable cause to believe that the licensee is incompetent to operate the type of motor vehicle for which the licensee holds a license or is afflicted with mental or physical infirmities or disabilities which would make it unsafe for the licensee to operate a motor vehicle of the type for which he is licensed. When the examiner of chauffeurs suspends a license under this section, he shall immediately notify the licensee and afford him a hearing. After the hearing, the examiner of chauffeurs may rescind the suspension, or he may suspend the license for a further period or revoke the license. Any person whose license has been suspended or revoked under this section may appeal under section . . .-138.

Sec. -----129. Authority of examiner of chauffeurs to cancel license. The examiner of chauffeurs may cancel any operator's or chauffeur's license if he determines that the licensee was not entitled to it, failed to give the required or correct information in his application, or committed fraud in making his application or in obtaining the license.

Upon cancellation, the licensee shall surrender to the examiner of chauffeurs the license and the badge, if any.

Sec. -----131. Suspension of a license; surrender. Every licensee

whose license has been suspended pursuant to this part or of any traffic law or regulation of the State or any county, shall surrender his license to the examiner of chauffeurs or the court, as is appropriate, which agency shall take custody of the license during the period of suspension.

Sec.-132. Record of conviction forwarded to examiner of chauffeurs. The record of any conviction resulting in the revocation or suspension of any person's license for a violation of this part or any traffic law or regulation of the State or county shall be forwarded by the court to the examiner of chauffeurs of the county in which the court is located.

Sec.-143. Employing unlicensed chauffeur. No person shall employ as a chauffeur of a certain category of motor vehicle any person who is not licensed under this part to operate that category of motor vehicle.

Sec.-145. Penalty. Whoever violates this part shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

PART VII. ALCOHOL AND HIGHWAY SAFETY

Sec.-160. Implied consent of driver of motor vehicle to submit to testing to determine alcoholic content of blood. Any person who operates a motor vehicle upon the public highways of the State shall be deemed to have given his consent, subject to this part, to a test approved by the highway safety coordinator of his breath or blood for the purpose of determining the alcoholic content of his blood; such person shall have the option to take a test of his breath or blood, or both. The test or tests shall be administered at the request of a police officer having reasonable grounds to believe the person driving or in actual physical control of a motor vehicle upon the public highways is under the influence of intoxicating liquor only after (1) a lawful arrest and (2) the police officer has informed the person of the sanctions of section . . . -164.

Sec.-161. Persons qualified to take blood specimen. No person other than a physician, licensed laboratory technician, or registered nurse may withdraw blood for the purpose of determining the alcoholic content therein. This limitation shall not apply to the taking of a breath specimen.

Sec.-162. Additional tests. The person tested may have any physician, licensed laboratory technician, or registered nurse of his own choosing withdraw blood and any person of his own choosing administer a test or tests in addition to any administered at the direction of a police officer. The result of the test or tests may be used as provided in section 311-29. The failure or inability to obtain an additional test by a person shall not preclude the admission of the test or tests taken at the direction of a police officer. Upon the request of the person who is tested, full information concerning the test or tests taken at the direction of the police officer shall be made available to him.

Sec.-163. Consent of person incapable of refusal not withdrawn. The consent of a person deemed to have given his consent pursuant to section . . . -160 shall not be withdrawn by reason of his being

dead, unconscious or in any other state which renders him incapable of consenting to examination, and the test may be given. In such event, a test of the person's blood shall be administered.

Sec. -----164. Revocation of privilege to drive motor vehicle upon refusal to submit to testing. If a person under arrest refuses to submit to a test of his breath or blood, none shall be given, but the arresting officer shall, as soon as practicable, submit an affidavit to a magistrate of the district in which the arrest was made, stating that at the time of the arrest, he had reasonable grounds to believe the arrested person had either been driving or was in actual physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor, that the arrested person had been informed of the sanctions of this section, and that the person had refused to submit to a test of his breath or blood.

Upon receipt of the affidavit, the magistrate shall hold a hearing as provided in section ...-165, and shall determine whether the statements contained in the affidavit are true and correct. If the magistrate finds the statements contained in the affidavit are true, he shall revoke the arrested person's license, permit or any nonresident operating privilege for a period of six months.

If the arrested person is a resident without a license or permit to operate a motor vehicle in the State, the magistrate shall send notice of the results of the hearing to the examiners of chauffeurs of all counties. The examiners of chauffeurs shall deny the person the issuance of a license or permit for a period of six months.

The penalties provided by this section are additional penalties and not substitutes for any other penalties provided by law.

Sec. -----165. Hearing before a magistrate. A hearing to determine the truth and correctness of an affidavit submitted to a magistrate shall be held within ten days after the magistrate has received the affidavit.

The magistrate shall hear and determine whether the arresting officer had reasonable grounds to believe that the person had been either driving or in actual physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor, whether the person was lawfully arrested, whether the arresting officer had informed the person of the sanctions of section ...-164, and whether the person refused to submit to a test of his breath or blood.

Sec. -----166. Appeal to circuit judge. An order of a magistrate issued under section-164 may be appealed in the manner provided in section-138.

Sec. -----167. Interpretation of the tests. For the purposes of this part and to the fullest extent possible, the interpretation of the testing to determine alcoholic content of blood shall be as provided in section 311-29.

Sec. -----168. Proof of refusal; admissibility. If a legally arrested person refuses to submit to a test of his breath or blood, proof of refusal shall be admissible only in a hearing under section-165 or appeal

thereof and shall not be admissible in any other action or proceeding, whether civil or criminal.

Sec.-169. Other evidence not excluded. This part shall not limit the introduction of any other competent evidence bearing on the question of whether the person was under the influence of intoxicating liquor.

Sec.-170. Notice to other states. When it is determined under this part that a nonresident's privilege to operate a motor vehicle in the State shall be revoked or denied, the chief of police shall inform, in writing, the official in charge of traffic control or public safety of the nonresident's home state and of any state in which he has an operator's license of the action taken.

Sec.-171. Test results to be collected. The results of any test for alcohol content made upon any person including any person who has been fatally injured in a traffic accident or upon the driver of a motor vehicle involved in an accident which resulted in another person's death, shall be sent to the state highway safety coordinator who shall compile the data without revealing the identity of any individual tested, which data shall be available only to the state and county highway safety councils and to other agencies he deems necessary and advisable.

PART VIII. TRAFFIC RECORDS SYSTEMS

Sec.-180. Uniform traffic records systems. The state highway safety coordinator shall promote the establishment of a uniform traffic records system in each county, which shall include such information as may be prescribed by rules and regulations adopted by the state highway safety coordinator for the purposes of this chapter.

Sec.-181. Relationship to other agencies. (a) The state highway safety coordinator shall have access to all traffic records of the violation bureaus of the district courts, the circuit courts, the police departments, the county treasurers, the department of health, and the department of education.

(b) The state highway safety coordinator shall authorize the furnishing of information contained in the traffic records systems of each county (1) with respect to any individual only in response to a request from a state, a political subdivision of a state, or a federal department or agency or (2) with respect to data and without identification of any individual only for research purposes he deems to be necessary and advisable."

SECTION 3. Sections 160-2, 160-3, 160-4.1, 160-4.2, 160-5, 160-6, 160-7, 160-8, 160-9, 160-11, 160-12, 160-13, 160-14, 160-15, 160-16, 160-17, 160-18, 160-220, 160-221, 160-222, 160-223, 160-224, 160-225, and 160-226 are transferred to PART III entitled REGISTRATION OF VEHICLES of the new chapter established by this Act and renumbered sections-40,-41,-42,-43,-44,-45,-46,-47,-48,-50,-51,-52,-53,-54,-55,-56,-57,-59,-60,-61,-62,-63,-64, and-65.

SECTION 4. Sections 160-31, 160-38, 160-39, 160-45, 160-55, 160-56, 160-57, 160-58, 160-59, 160-60, 160-61, 160-62, 160-63, 160-65, 160-71, 160-72, and 160-73 are transferred to PART VI entitled MOTOR VEHICLE OPERATOR AND CHAUFFEUR LICENSING of the new chapter established by this Act and renumbered respectively as follows: Sections-110,-120,-121,-125,-133,-134,-135,-136,-138,-139,-140,-141,-142,-144,-146,-147, and-148.

SECTION 5. Section 160-10, Revised Laws of Hawaii 1955, is transferred to the new chapter established by this Act, renumbered section-49 and amended by adding to subsection (c) the following:

“....; provided that the treasurer, if he has ascertained as of the date of such application that the registered owner has not deposited or paid bail with respect to any summons or citation issued to such registered owner for stopping, standing, or parking in violation of traffic ordinances within the county, may require, as a condition precedent to such transfer, that the registered owner deposit or pay bail with respect to all such summons or citations.”

SECTION 6. Section 160-19, Revised Laws of Hawaii 1955, is transferred to the new chapter established by this Act, renumbered section ...-58 and amended to read as follows:

“Sec.-58. **Penalty.** Any person who violates sections-40 to-57 shall be fined not less than \$5 nor more than \$1,000, or imprisoned not more than one year, or both.”

SECTION 7. Section 160-33, Revised Laws of Hawaii 1955, is transferred to the new chapter established by this Act, renumbered section-114, and by amending subsection (c) to read as follows:

“(c) Any nonresident who is at least twenty years of age who has in his possession a valid operator’s license issued to him in his home state or the Dominion of Canada may, for a period of not more than ninety days, operate any category of motor vehicle for which he holds a valid operator’s license.”

SECTION 8. Section 160-34, Revised Laws of Hawaii 1955, is transferred to the new chapter established by this Act, renumbered section-113, and amended in the following particulars:

- (1) By deleting subsections (b) and (d).
- (2) By amending subsection (h) to read as follows:

“To any person, as an operator, who is under seventeen years of age; provided that a person who is fifteen or sixteen years of age may be granted a special license upon satisfying the requirements of sections-117 and-118, which license may be suspended or revoked by a judge or magistrate having jurisdiction over the holder of the special license. Upon revocation of the special license, the person shall not be eligible to operate a motor vehicle on the highway until he is seventeen years of age and has again satisfied the requirements of sections-117 and-118.”

(3) By adding after subsection (h) a new subsection (i) to read as follows:

“(i) To any person who has been ordered to be hospitalized under chapter 81 or committed under chapter 82 unless the director of health certifies to the examiner of chauffeurs that the person is mentally competent and may be examined to determine his fitness to operate a motor vehicle.”

SECTION 9. Section 160-42, Revised Laws of Hawaii 1955, is transferred to the new chapter established by this Act, renumbered section . . . -117, and its last sentence amended to read as follows:

“The examinations shall be appropriate to the operation of the category of motor vehicle for which the applicant seeks to be licensed and shall be conducted as required by the state highway safety coordinator.”

SECTION 10. Section 160-44, Revised Laws of Hawaii 1955, is transferred to the new chapter established by this Act, renumbered section . . . -124, and amended as follows:

(1) By deleting the word “issue” in its title and inserting in lieu thereof the word “issuance”; and

(2) By deleting the words “of metal” appearing in the third line.

SECTION 11. Section 160-50, Revised Laws of Hawaii 1955, is transferred to the new chapter established by this Act, renumbered section . . . -127, and amended by adding the following:

“The examiner of chauffeurs may dispose of any records accumulated under this section whenever he deems it advisable.”

SECTION 12. Section 160-53, Revised Laws of Hawaii 1955, is transferred to the new chapter established under this Act, renumbered section . . . -130, and amended by deleting the second paragraph.

SECTION 13. Section 160-70, Revised Laws of Hawaii 1955, is transferred to the new chapter established by this Act, renumbered section . . . -137, and subsection (a) amended by adding the following:

“(30) Operating or carrying a passenger on a motor scooter or motorcycle without safety helmet or, in absence of windscreen or windshield, without eye and face protective devices, or other protective devices required by the state highway safety coordinator 0 to 2.

“(31) Driving after failure to renew license . . . 0 to 2.”

SECTION 14. Section 160-227, Revised Laws of Hawaii 1955, is transferred to the new chapter established by this Act, renumbered section . . . -66, and amended to read as follows:

“Sec. . . . -66. **Penalty.** Any person who violates sections . . . -59 to . . . -65 shall be fined not more than \$50.”

SECTION 15. Sections 160-1, 160-30, 160-32, 160-35, 160-36, 160-37, 160-40, 160-41, 160-46, 160-47, 160-48, 160-49, 160-51, 160-52, 160-54, 160-64, and 160-66 of the Revised Laws of Hawaii 1955 are repealed.

SECTION 16. Sections 160-200 to 160-205 of the Revised Laws of Hawaii are repealed.

SECTION 17. Existing operator's licenses invalidated. All operator's licenses issued before the effective date of this Act shall become invalid on such date or dates as may be prescribed by rules and regulations promulgated by the state highway safety coordinator.

SECTION 18. Reissuance of operator's licenses. Any person who holds an operator's license issued before the effective date of this Act who the examiner of chauffeurs determines is physically and visually qualified to be licensed shall, upon paying a fee to be determined by the board of supervisors or council of each county, be issued a new operator's license without a written or oral examination.

The time schedule for the reissuance of operator's licenses hereunder shall be in accordance with rules and regulations adopted by the state highway safety coordinator; provided that the reissuance of operator's licenses hereunder shall be completed on or before two years from the effective date of this Act.

The examiner of chauffeurs shall indicate in an appropriate manner on each new license issued the category or categories of motor vehicles for which the person named is qualified to operate. The license shall not authorize the person named to operate any other category or categories of motor vehicles.

The new licenses shall expire as provided in section-115 and be renewed as provided in section-116(a) of the new chapter established by this Act.

SECTION 19. Expiration and reissuance of chauffeur's license. Within thirty days prior to the expiration of a chauffeur's license issued before the effective date of this Act, the person who holds the license shall apply for a new chauffeur's license under section-111(b) of the new chapter established by this Act.

The examiner of chauffeurs may waive the examination of an applicant's ability to operate a vehicle if he is satisfied that the applicant is qualified to operate the category of motor vehicles for which he seeks to be licensed.

The licenses issued under this section shall expire as provided in section-115(c) and be renewed as provided in section-116(b) of the new chapter established by this Act.

SECTION 20. Chapter 311, Revised Laws of Hawaii 1955, is amended to add a new section to be appropriately designated and to read as follows:

"Section 311-..... It shall be unlawful for any operator of a motorcycle or motor scooter to permit any person under the age of seven years to ride thereon."

SECTION 21. Personnel. The governor may create no more than nine new permanent or temporary positions to be allocated by him to any of the executive departments as he shall deem proper to implement this Act.

SECTION 22. Appropriation. The sum of \$40,000 or so much thereof as may be necessary is appropriated out of the general revenues to be expended by the governor for the purposes of this Act.

SECTION 23. Inconsistent laws amended. All laws or parts of laws which are held to be inconsistent with this Act are amended to conform with the provisions of this Act.

SECTION 24. Severability. The provisions of this Act are declared to be severable and if any portion of this Act or the application thereof to any person, circumstance, or property, is held to be invalid for any reason, the validity of the remainder of this Act or the application of such portion to other persons, circumstances, or property shall not be affected thereby.

SECTION 25. This Act shall take effect upon its approval.
(Approved June 4, 1967.)