

A Bill for an Act Relating to the Hawaii Motor Vehicle Accident Reparations Act.

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

SECTION 1. Legislative policy and purpose. The legislature finds that the Hawaii no-fault law cannot function in the interest of the protection of our society if compliance with the law is permitted to be the option of some drivers and owners of motor vehicles.

The legislature determines, that in order to protect the public as intended under the Hawaii no-fault law, law enforcement officers and the courts of the State must be placed in a statutory position effectively to enforce the observance of the law.

SECTION 2. Chapter 294, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated, and to read:

“Sec. 294- Verification of insurance. (a) Every insurer shall issue to its insureds a no-fault insurance identification card for each motor vehicle for which the basic no-fault coverage is written showing the name and make and the factory or serial number of the motor vehicle, policy number, names of the insured and the insurer, and the effective dates of coverage including the expiration date; provided, however, that insurers of five or more motor vehicles which are under common registered ownership and used in the regular course of business shall not be required to indicate the name of make and the factory or serial number of each motor vehicle. The identification card shall be in the insured motor vehicle at all times and shall be exhibited to a law enforcement officer upon demand.

(b) The commissioner of motor vehicle insurance shall issue a certificate of self insurance periodically, as necessary, for use in each motor vehicle insured under section 294-8(a) (2).”

SECTION 3. Chapter 805, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated, and to read:

“Sec. 805- Motor vehicle insurance violation. (a) In all cases of citation for alleged violations of chapter 294 or section 286-116, the court shall hear and dispose of such actions expeditiously. Such actions may be severed from any other proceedings to facilitate immediate disposition. Continuance of proceedings on motor vehicle insurance violations may be allowed in the discretion of the court, only after the court has received evidence that the required insurance on the motor vehicle involved was in fact in force on the date of the

citation, or that the motor vehicle has been, or is ordered by the court to be, impounded.

(b) In all cases of citation for alleged violations of chapter 294 or section 286-116 the court shall require the appearance of the driver cited and the registered owner of the motor vehicle. If the registered owner is not the driver, the registered owner shall be cited by service of the citation on the driver who shall be deemed to be the owner's agent for purposes of service and by naming the owner jointly with the driver in the citation. Where the registered owner is a corporation or association, an officer or designated agent thereof shall be required to appear. Where the registered owner is a partnership, a general partner thereof shall be required to appear.

(c) In all such cases of violations as provided herein, the court shall, in addition to any other penalty, impose the following penalties:

- (1) Suspension or revocation of driver's license of the driver and of the registered owner; or
- (2) Suspension or revocation of the motor vehicle registration plates of the vehicle involved; or
- (3) Impoundment, or impoundment and sale, of the motor vehicle for the costs of storage and other charge incident to seizure of the vehicle; or any other cost involved pursuant to section 294-10; or
- (4) Any combination of such penalties.

The court shall impose any other sanction it finds necessary to remove the vehicle or driver involved from the highways, and to preclude the driver or registered owner from the continued operation of any uninsured motor vehicle.

(d) Upon subsequent hearing ordered by the court or upon the driver's or registered owner's motion, the court may, in its discretion, terminate any judgment previously entered under subsection (c) upon finding that the registered owner and the driver, as applicable, have:

- (1) Complied with chapter 287 with respect to any prior accident as evidenced by a form properly validated by a police department; and
- (2) Complied with all requirements under chapter 294 as evidenced by a no-fault insurance identification card and the insurance policy issued by a licensed insurer; or
- (3) Complied with all requirements under chapter 294 as evidenced by a certificate of self insurance issued by the commissioner of motor vehicle insurance pursuant to section 294- (b).

(e) The court may, in its discretion, maintain continuing jurisdiction following any termination or judgment as provided in the preceding paragraph herein, in order to assure the continued compliance of the registered owner or driver with chapters 286, 287, or 294."

SECTION 4. Section 286-116, Hawaii Revised Statutes, is amended to read:

"Sec. 286-116 License, insurance identification card, possession, exhibition. (a) Every licensee shall have a valid driver's license in his immediate possession at all times, and a valid no-fault insurance identification card applicable to the motor vehicle operated as required under section 294- , when operating a

motor vehicle, and shall display the same upon demand of a police officer. Every police officer or law enforcement officer when stopping a vehicle or inspecting a vehicle for any reason shall demand that the driver or owner display his driver's license and insurance identification card. No person charged with violating this section shall be convicted if he produces in court, or proves from the proper official or other records that he was the holder of a driver's license or a no-fault identification card and policy conforming to chapter 294 or a certificate of self insurance issued by the commissioner of motor vehicle insurance pursuant to section 294- (b), theretofore issued to him and valid at the time of his arrest.

(b) At any time a law enforcement officer finds a motor vehicle in operation by a driver not in possession of the no-fault insurance identification card required under section 294- , the officer shall issue a citation with the earliest possible date for court appearance in every instance.

(c) In all instances in which a citation shall be issued under subsection (b), whenever the driver cited is not found to be the registered owner of the motor vehicle under operation, the citation shall also be issued to the driver as the owner's agent and to the registered owner of the motor vehicle. Whenever the registered owner of any motor vehicle permits any person to operate his motor vehicle, he appoints, designates, and constitutes the driver his agent for all purposes under this section and sections 294- , and 805-

(d) The operation of any motor vehicle required to be licensed on a highway by a driver, whether or not licensed, who knows, or has reason to believe, that the motor vehicle is not insured in compliance with chapter 294, shall constitute a violation of this chapter.

(e) Any registered owner of any motor vehicle required to be licensed, who directly or indirectly permits the operation of such motor vehicle on any highway at any time the motor vehicle is not insured in compliance with chapter 294, shall be guilty of a violation of this chapter. The registered owner shall, in all cases, be presumed to know whether a motor vehicle is insured in compliance with chapter 294."

SECTION 5. Section 294-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) (1) No person shall operate or use a motor vehicle upon any public street, road, or highway of this State at any time unless such motor vehicle is insured at all times under a no-fault policy. Every owner of a motor vehicle used or operated at any time upon any public street, road, or highway of this State shall obtain a no-fault policy upon such vehicle which provides the coverage required by this chapter and shall maintain the no-fault policy at all times for the entire motor vehicle registration period.

(2) The requirements of this subsection may be satisfied by any owner of a motor vehicle if:

(A) Such owner provides a surety bond, proof of qualifications as a self-insurer, or other securities affording security substantially equivalent to that afforded under a no-fault policy, providing coverage at all times for the entire motor vehicle registration period, as determined and approved by the commissioner under

regulations, and

- (B) The commissioner is satisfied that in case of injury or death or property damage, any claimant would have the same rights against such owner as the claimant would have had if a no-fault policy had been applicable to such vehicle."

SECTION 6. Section 294-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) An owner of a motor vehicle registered in this State who fails to maintain insurance as required by section 294-8, shall immediately surrender the registration certificate and license plates for the vehicle to the county director of finance and may not operate or permit operation of the vehicle in this State until insurance has again been obtained."

SECTION 7. Section 294-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

"(c) A no-fault policy, including required optional additional insurance meeting provisions of section 294-11, once issued may not be canceled or refused renewal by an insurer except for:

- (1) Suspension or revocation of the license of the principal operator to operate the type of motor vehicle insured, or
- (2) Failure to pay the premium for such policy after reasonable demand therefor.

In any case of cancellation or refusal to renew, the insurer shall continue all no-fault and optional additional coverages in force, to the date of expiration, or for thirty days following notice, whichever date first occurs. Within fifteen days of a cancellation, the insurer shall refund the pro rata unearned portion, if any, of any prepaid premiums. In any case of cancellation or refusal to renew, written notice shall be given to the insured, not less than thirty days prior to the effective date of such cancellation or refusal to renew. Such cancellation or refusal to renew shall not be deemed valid unless supported by a certificate of mailing properly validated by the United States Post Office."

SECTION 8. Section 294-39, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) Any person subject to the provisions of this chapter in the capacity of the operator, owner, or registrant of a motor vehicle in this State, or registered in this State, who violates any applicable provision of this chapter, shall be subject to citation for such violation by any county police department in a form and manner approved by the violations bureau of the district court of the first circuit. Each violation shall be deemed a separate offense and shall be subject to a fine not less than \$100 nor more than \$1,000 and such fine shall not be suspended, or thirty days imprisonment, or suspension of motor vehicle driver's license, or forfeiture of motor vehicle certificate of registration, or any combination of such penalties."

SECTION 9. Section 286-26, Hawaii Revised Statutes, shall be amended by adding subsection (h) to read:

“(h) As part of the inspection required by this section the owner of the vehicle to be inspected shall produce and display the no-fault insurance identification card for the inspected motor vehicle required by section 294- . If no card is displayed then the sticker authorized by the state highway coordinator shall not be affixed to the vehicle and the certificate of inspection shall not be issued.”

SECTION 10. Chapter 294, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“**Sec. 294- Unlawful use of no-fault insurance identification card.** It shall be a violation of this chapter for any person who makes, issues, or knowingly uses any fictitious, or fraudulently altered no-fault insurance identification card, or any person who displays or causes or permits to be displayed a no-fault insurance identification card knowing that the no-fault policy was cancelled as provided in section 294-9.”

SECTION 11. Section 286-108, Hawaii Revised Statutes, is amended to read:

“**Sec. 286-108 Examination of applicants.** The examiner of drivers shall examine every applicant for a driver's license, except as otherwise provided in this part. The examination shall be held in the county where the applicant resides within ten days from the date of the filing of the application. It shall include a test of the applicant's eyesight and such further physical examination as the examiner of drivers finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways; the applicant's ability to understand highway signs regulating, warning, and directing traffic; his knowledge of the rules of the road based on the traffic laws of the State and the traffic ordinances of the county where he resides or where he intends to operate a motor vehicle; and actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle. 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. As part of the examination required by this section the applicant for a driver's license shall produce and display a valid no-fault insurance identification card for the motor vehicle required by section 294- , when he demonstrates his ability to operate a motor vehicle to the satisfaction of the examiner of drivers. If no valid no-fault insurance identification card is displayed, the examiner of drivers shall not issue a driver's license to the applicant.”

SECTION 12. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 13. This Act shall take effect on September 1, 1978.

(Approved May 18, 1978.)

*Edited accordingly.