

ACT 234

H.B. NO. 1986-80

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. Section 294-2, Hawaii Revised Statutes, is amended by amending the definition of “no-fault benefits” to read:

- “(10) “No-fault benefits” with respect to any accidental harm shall be subject to an aggregate limit of \$15,000 per person or his survivor and means:
- (A) All appropriate and reasonable expenses necessarily incurred for medical, hospital, surgical, professional nursing, dental, optometric, ambulance, prosthetic services, products and accommodations furnished, x-ray and may include any non-medical remedial care and treatment rendered in accordance with the teachings, faith or belief of any group which depends for healing upon spiritual means through prayer;
 - (B) All appropriate and reasonable expenses necessarily incurred for psychiatric, physical, and occupational therapy and rehabilitation;
 - (C) Monthly earnings loss measured by an amount equal to the lesser of:
 - (i) \$800 per month, or
 - (ii) The monthly earnings for the period during which the accidental harm results in the inability to engage in available and appropriate gainful activity.
 - (D) All appropriate and reasonable expenses necessarily incurred as a result of such accidental harm, including, but not limited to, (i) expenses incurred in obtaining services in substitution of those that the injured or deceased person would have performed not for income but

for the benefit of himself or his family up to \$800 per month, (ii) funeral expenses not to exceed \$1,500, and (iii) attorney's fees and costs to the extent provided in section 294-30(a);

provided that the term, when applied to a no-fault policy issued at no cost under the provisions of section 294-24(b)(2), shall not include benefits under subparagraphs (A), (B), and (C) for any person receiving public assistance benefits."

SECTION 2. Section 294-10, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read:

"(b) The commissioner shall accumulate experience data on a yearly basis for all motor vehicle accidents in the State resulting in accidental harm, and shall tabulate the amounts of benefits paid or reserved, hereinafter collectively termed "claims", for expenses specified in section 294-2(10) (A) and (B) for each of these accidents. He shall perform such actuarial evaluations of this data necessary to determine, annually, that specific figure in dollar value, below which ninety per cent of all non-zero motor vehicle accident medical-rehabilitative claims arising from motor vehicle accidents occurring during the next no-fault policy term year are expected to fall. This specific figure shall be utilized annually as the medical-rehabilitative limit for all accidents occurring during the next no-fault policy term year for the purpose of section 294-6(a) (2).

(c) For the purposes of this section the no-fault policy term year shall commence annually on September 1, and terminate the following August 31. For each term year the commissioner shall make the tabulation of data necessary for the computation of the medical-rehabilitation limit during the period April 1 to March 31 preceding the September 1 start of the no-fault policy term year."

SECTION 3. 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. Notwithstanding any provision of the Hawaii Penal Code, 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.

In the case of multiple violations the court shall in addition to any other penalty, impose the following penalties:

- (1) Imprisonment of not more than thirty days; or
- (2) Suspension or revocation of driver's license of the driver and of the registered owner; or
- (3) Suspension or revocation of the motor vehicle registration plates of the vehicle involved; or
- (4) Impoundment, or impoundment and sale, of the motor vehicle for the costs of storage and other charges incident to seizure of the vehicle; or any other cost involved pursuant to section 294-10; or

(5) Any combination of such penalties.”

SECTION 4. Section 805-13, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

“(c) In the case of multiple violations the court shall, in addition to any other penalty, impose the following penalties:

- (1) Imprisonment of not more than thirty days; or
- (2) Suspension or revocation of driver’s license of the driver and of the registered owner; or
- (3) Suspension or revocation of the motor vehicle registration plates of the vehicle involved; or
- (4) Impoundment, or impoundment and sale, of the motor vehicle for the costs of storage and other charges incident to seizure of the vehicle; or any other cost involved pursuant to section 294-10; or
- (5) 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.”

SECTION 5. Chapter 294, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“**Sec. 294- Administrative hearing on denial of claim.** (a) If an insurer or self-insurer elects to deny a claim for no-fault or optional additional insurance benefits in whole or in part, it shall within five business days thereafter notify the claimant in writing of the denial and the reasons for the denial.

(b) If a claimant objects to the denial of benefits, he shall file with the commissioner two copies of the denial, a written request for review and a written statement setting forth specific reasons for his objections. The documents must be filed within sixty days after the date of denial of his claim.

(c) The commissioner shall not review any denial of benefits in which the disputed amount exceeds \$5,000.

(d) The commissioner shall conduct a hearing to review the denial of benefits in conformity with chapter 91. The commissioner shall have all the powers to conduct a hearing as set forth in section 92-16. After granting an opportunity for hearing to the insurer and claimant, the commissioner shall affirm the denial or reject the denial and order the payment of benefits as the facts may warrant.

(e) The commissioner may assess the cost of the hearing upon either or both of the parties. The commissioner’s final order may be appealed in the manner provided for by chapter 91.”

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.*

SECTION 7. This Act shall take effect upon its approval.

(Approved June 7, 1980.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.