

**ACT 84**

S.B. NO. 2191-80

A Bill for an Act Relating to Motor Vehicle Safety Responsibility Act.

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

SECTION 1. Chapter 287, Hawaii Revised Statutes, is amended to read as follows:

Section 287-1, Hawaii Revised Statutes, is amended by amending the definition of "Chief of police" to read:

"Administrator" means the chief of police of each county or the director of finance of each county and their authorized subordinates charged with the responsibility of administering this chapter;"

Sections 287-2 to 287-9, Hawaii Revised Statutes, are amended to read as follows:

**"Sec. 287-2 Administrator to administer chapter; appeal to circuit court.**

(a) The administrator shall administer and enforce this chapter and make rules and regulations consistent herewith and necessary for its administration and shall provide for hearings upon request of any person aggrieved by orders or acts of the administrator under this chapter. The rules and regulations shall be as nearly uniform throughout the State as the circumstances permit, but the fact of nonuniformity shall not of itself be sufficient to make unenforceable any rule or regulation, otherwise lawful, promulgated hereunder.

(b) Any order or act of any administrator pursuant to the authority given by this chapter or by rules or regulations hereunder, shall be subject to appeal to the circuit court of the circuit in which the order or act has been entered or done, which shall have jurisdiction to affirm, vacate, and modify, in whole or in part, any such order or act. Any person aggrieved may file an appeal therefrom in the office of the clerk of the circuit court within thirty days after the effective date of the order or act. The appeal shall not operate to suspend the order or act unless for cause satisfactory to the court and upon such conditions as may be imposed by the court, the court shall otherwise order. The administrator upon service of a copy of the appeal shall forthwith transmit to the clerk of court a transcript of the papers filed with him and a certified transcript of the evidence, if any, adduced. Upon the filing of the transcript, the appeal shall be at issue, and upon the application of either party, may be advanced and assigned for hearing at the earliest possible date to determine whether the action of the administrator is in accordance with law. The prosecuting officer and the legal advisor of the county shall render assistance to the administrator upon his request in enforcing and carrying out this chapter and in prosecuting and defending proceedings hereunder."

**"Sec. 287-3 Furnishing of operating records.** The administrator shall upon request furnish any person a certified abstract of the operating record, if any, of any person showing whether there has or has not been any conviction of the person for violating any law relating to the operation of a motor vehicle or of any injury or damage caused by the person. The administrator may collect a fee to be a realization of the general fund of not in excess of 50 cents for any such certificate."

**"Sec. 287-4 Report required following accident.** The driver of every motor vehicle which is in any manner involved in an accident within this State in which any person is killed or injured or in which damage to the property of any one person, including himself, to an apparent extent in excess of \$300 is sustained shall at the earliest practical time, and in any event within twenty-four hours after the accident, report the matter in writing or in person to the chief of police. The report, the form of which shall be prescribed by the chief of police and administrator, shall contain information to enable the administrator to determine whether the requirements for the

deposit of security under sections 287-5 and 287-6 are inapplicable by reason of the existence of insurance or other exceptions specified in this chapter. If the driver is physically incapable of making the report, any other occupant in the vehicle at the time of the accident capable of making the report shall make or cause to be made the report not made by the driver, and the registered owner of the motor vehicle involved in the accident shall, unless the report is filed, within ten days after learning of the accident make the report. The driver, occupant, and registered owner shall furnish such additional relevant information as the chief of police or administrator shall require. If the reports required hereunder are made pursuant to any ordinance or other provision or requirement of law, no additional report, except as specifically provided herein, shall be required hereby.”

“**Sec. 287-5 Security required unless evidence of insurance.** If twenty days after the receipt of a report of a motor vehicle accident within this State which has resulted in bodily injury or death or damage to property of any one person in excess of \$300, the administrator does not have on file evidence satisfactory to him that the person who would otherwise be required to file security under section 287-6 has been released from liability, or has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the administrator shall determine the amount of security which is sufficient in his judgment to satisfy any judgment or judgments for damages resulting from the accident as may be recovered against each driver or owner. This section shall be applicable to each driver or owner notwithstanding that the administrator determines that the amount of security required hereunder shall as to any such driver or owner be less than \$300.”

“**Sec. 287-6 Suspension of license.** The administrator shall suspend the license or permit of each driver and the license of the registered owner of the motor vehicle in any manner involved in the accident and if the driver is a nonresident, any privilege of operating the motor vehicle within the State shall cease, and if the owner of the motor vehicle is a nonresident, the privilege of the use within the State of any motor vehicle owned by him shall also cease, unless the driver or owner or both have satisfied the requirements of section 287-5 or have deposited security in the sum determined by the administrator. Notice of the suspension shall be sent by the administrator to the driver and registered owner and the nonresident owner not less than ten days prior to the effective date of the suspension and shall state the amount required as security. Where erroneous information is given the administrator with respect to the matters set forth in subdivision (1), (2), or (3) of section 287-7, he shall take appropriate action as hereinbefore provided within sixty days after receipt by him of correct information with respect to those matters.”

“**Sec. 287-7 Exceptions.** Sections 287-5 and 287-6 shall not apply under the conditions stated in section 287-8 nor:

- (1) To the driver or registered owner if the registered owner had in effect at the time of the accident an automobile liability policy with respect to the motor vehicle involved in the accident;
- (2) To the driver, if not the registered owner of the motor vehicle if there was in

effect at the time of the accident an automobile liability policy or bond with respect to his operation of motor vehicles not owned by him;

- (3) To the driver or registered owner if the liability of the operator or registered owner for damages resulting from such action is, in the judgment of the administrator, covered by any other form of liability insurance policy or bond;
- (4) To any person qualifying as a self-insurer under section 287-42, or to any driver of a motor vehicle for the self-insurer where the self-insurer is responsible for the acts of the driver.

No automobile liability policy or bond shall be effective under this section unless issued by an insurance company or surety company authorized to do business in the State, except that if the motor vehicle is registered elsewhere than in this State at the effective date of the policy or bond, or the most recent renewal thereof, the policy or bond shall not be effective under this section unless the insurance company or surety company, if not authorized to do business in the State, executes a power of attorney authorizing the insurance commissioner to accept service on its behalf of notice of process in any action upon the policy or bond arising out of the action; provided every such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than \$10,000 because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, to a limit of not less than \$20,000 because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of not less than \$5,000 because of injury to or destruction of property of others in any one accident."

**"Sec. 287-8 Further exceptions to requirement of security.** The requirements as to security and suspension of sections 287-5 and 287-6 shall not apply:

- (1) To the driver or the registered owner of a motor vehicle involved in an accident where no injury or damage was caused to the person or property of any one other than the driver or registered owner;
- (2) To the driver or the registered owner of the motor vehicle legally parked at the time of accident;
- (3) To the registered owner of the motor vehicle if at the time of the accident the vehicle was being operated without his permission, express or implied, or was parked by a person who had been operating the motor vehicle without such permission; nor
- (4) If prior to the date the administrator would otherwise suspend the license or permit under section 287-6, there is filed with the administrator evidence satisfactory to him that the driver who would otherwise have to file security has been released from liability or been finally adjudicated not to be liable or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments, with respect to all claims for injuries or damages resulting from the accident."

**"Sec. 287-9 Duration of suspension.** The license and permit suspended as provided in section 287-6 shall remain so suspended and shall not be renewed nor shall any new license or permit be issued to any of such persons until:

- (1) The person whose license or permit is suspended deposits or there is depos-

- ited on his behalf the security required under section 287-6; or
- (2) One year has elapsed following the date of the suspension and evidence satisfactory to the administrator has been filed with him that during such period no action for damages arising out of the accident has been commenced; or
  - (3) Evidence satisfactory to the administrator has been filed with him of a release of the driver from liability, or a final adjudication of nonliability of the driver, or a duly acknowledged written agreement, in accordance with section 287-8(4); provided, in the event there is any default in the payment of any installment under any duly acknowledged written agreement, then upon notice of the default, the administrator shall forthwith suspend the license of the person defaulting thereunder which shall not be restored unless and until (A) the person deposits and thereafter maintains security as required under section 287-6 in such amount as the administrator may then determine, or (B) one year has elapsed following the date when such security was required and during such period no action upon the agreement has been instituted for enforcement thereof."

Sections 287-11 and 287-12, Hawaii Revised Statutes, are amended to read as follows:

**"Sec. 287-11 Form and amount of security.** The security required under this chapter shall be in such form and in such amount as the administrator may require but in no case in excess of the limits specified in section 287-7 in reference to the acceptable limits of a policy or bond. The person depositing security shall specify in writing the person or persons on whose behalf a deposit is made and, at any time while the deposit is in the custody of the administrator or the treasurer or director of finance of the county, the person depositing it may, in writing, amend the specification of the person or persons on whose behalf deposit is made to include an additional person or persons; provided, that a single deposit of security shall be applicable only on behalf of persons required to furnish security because of the same accident.

The administrator may reduce the amount of security ordered in any case within six months after the date of the accident, if in his judgment the amount ordered is excessive and the excess deposited over the reduced amount ordered shall be returned to the depositor or his personal representative forthwith notwithstanding section 287-12."

**"Sec. 287-12 Custody, disposition, and return of security.** Security deposited in compliance with the requirements of this chapter shall be placed by the administrator in the custody of the county treasurer or director of finance and shall be applicable only to the payment of a judgment or judgments rendered against the person or persons on whose behalf the deposit was made, for damages arising out of the accident in question in an action, begun not later than one year after the date of the accident or within one year after the date of deposit of any security under subdivision (3) of section 287-9 and such deposit or any balance thereof shall be returned to the depositor or his personal representative when evidence satisfactory to the administrator has been filed with him that there has been a release from liability, or a final adjudication of nonliability, or a duly acknowledged agreement, in accordance with subdivision (4) of section 287-8 has been filed, or whenever after the expiration

of one year (1) from the date of the accident, or (2) from the date of deposit of any security under subdivision (3) of section 287-9, the administrator is given reasonable evidence that there is no pending action and no judgment rendered in the action left unpaid. The security deposited shall not be subject to any attachment or execution unless the attachment or execution arises out of suit for damages as aforesaid.”

Sections 287-14 to 287-16, Hawaii Revised Statutes, are amended to read as follows:

**“Sec. 287-14 Matters not to be evidence in civil court.** Neither the report required by section 287-4, the action taken by the administrator pursuant to this chapter, the findings of the administrator upon which the action is based, nor the security filed as provided in this chapter shall be referred to in any way or be any evidence of the negligence or due care of either party at the trial of any action to recover damages.”

**“Sec. 287-15 Report of nonpayment of judgments.** Whenever any person fails within sixty days to satisfy any judgment upon the written request of the judgment creditor or his attorney, the clerk of the court or the judge of a court which has no clerk in which any such judgment is rendered shall forward to the administrator immediately after the expiration of the sixty days a certified copy of the judgment. If the defendant named in any certified copy of a judgment reported to the administrator is a nonresident, the administrator shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the defendant is a resident.”

**“Sec. 287-16 Suspension for nonpayment of judgment; exceptions.** The administrator, upon the receipt of a certified copy of the judgment shall forthwith suspend the license of any person against whom such judgment was rendered, except as hereinafter otherwise provided in this section and in section 287-19.

If the judgment creditor consents in writing, in such form as the administrator may prescribe, that the judgment debtor be allowed a license, the same may be allowed by the administrator, in his discretion, for six months from the date of the consent and thereafter until the consent is revoked in writing, notwithstanding default in the payment of the judgment, or of any installments thereof prescribed in section 287-19, provided the judgment debtor furnished proof of financial responsibility.”

Sections 287-19 and 287-20, Hawaii Revised Statutes, are amended to read as follows:

**“Sec. 287-19 Installment payment of judgment; default.** (a) A judgment debtor upon due notice to the judgment creditor may apply to the court in which the judgment was rendered for the privilege of paying the judgment in installments and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may for the purposes of this chapter only so ordered and fix the amounts and times of payment of the installments.

(b) The administrator shall not suspend a license and shall restore any license suspended following nonpayment of a judgment, when the judgment debtor gives proof of financial responsibility and obtains such an order permitting the payment of the judgment in installments, and while the payment of any installment is not in default.

(c) If the judgment debtor fails to pay any installment as specified by the court order, then upon notice of the default, the administrator shall forthwith suspend the license of the judgment debtor until the judgment is satisfied as provided in this chapter.”

**“Sec. 287-20 Proof of financial responsibility required upon conviction of certain offenses.** Whenever a driver’s license has been suspended or revoked upon a conviction of any offense pursuant to law, or in the case of minors, suspended or revoked pursuant to part V of chapter 571, the license shall not at any time thereafter be issued to the person whose license has been suspended or revoked, nor shall the person thereafter operate a motor vehicle, unless and until the person has furnished and thereafter maintains proof of financial responsibility. Whenever by reason of a conviction of, or adjudication under part V of chapter 571 by reason of, any of the offenses hereinafter named, under the laws of the State or ordinances of any political subdivision, a court of competent jurisdiction has discretion to revoke or suspend a driver’s license but does not revoke or suspend the license, the administrator shall nevertheless after the expiration of thirty days from the date of conviction or adjudication suspend the license and shall keep the same suspended, and the person so convicted or adjudicated shall not thereafter operate a motor vehicle, unless and until the person so convicted or adjudicated furnishes and thereafter maintains proof of financial responsibility. The offenses referred to are:

- (1) Reckless or inattentive driving, driving while under the influence of intoxicating liquor, and driving while under the influence of drugs;
- (2) Conviction or adjudication under part V of chapter 571 by reason of any offense involving a motor vehicle in motion if the motor vehicle is in any manner involved in an accident in which any person is killed or injured, or in which damage to property results to an apparent extent in excess of \$300.

If any person, at the time of his conviction of, or adjudication under part V of chapter 571 by reason of, any of the offenses hereinabove named, or of any offense for which a court of competent jurisdiction may suspend or revoke a driver’s license, does not hold a valid driver’s license, no such license shall at any time thereafter be issued to the person unless and until he furnishes and thereafter maintains proof of financial responsibility.”

Sections 287-22 and 287-23, Hawaii Revised Statutes, are amended to read as follows:

**“Sec. 287-22 Certificate of insurance as proof.** Proof of financial responsibility may be furnished by filing with the administrator the written certificate of any insurance carrier duly authorized to do business in the State certifying that there is in effect a motor vehicle liability policy for the benefit of the person or persons required to furnish proof of financial responsibility. The certificate shall give the effective date of the motor vehicle liability policy, which date shall be the same as the effective date of the certificate, and shall designate by explicit description or by appropriate reference all motor vehicles covered thereby, unless the policy is issued to a person who is not the owner of a motor vehicle.”

**“Sec. 287-23 Certificate furnished by nonresident as proof.** (a) The nonresident owner of a motor vehicle not permanently registered in the State may give proof

of financial responsibility by filing with the administrator a written certificate or certificates of an insurance carrier authorized to transact business in the state in which the motor vehicle or motor vehicles described in the certificate is registered or if the nonresident does not own a motor vehicle, then in the state in which the insured resides, provided the certificate otherwise conforms with this chapter, and the administrator shall accept the same upon condition that the insurance carrier complies with the following provisions with respect to the policy so certified:

- (1) The insurance carrier shall execute a power of attorney authorizing the insurance commissioner to accept service on its behalf of notice of process in any action arising out of a motor vehicle action in the State;
- (2) The insurance carrier shall agree in writing that such policies shall be deemed to conform with the laws of the State relating to the terms of motor vehicle liability policies issued herein.

(b) If any insurance carrier not authorized to transact business in the State, which has qualified to furnish proof of financial responsibility, defaults in any such undertakings or agreements, the administrator shall not thereafter accept as proof any certificate of the carrier whether theretofore filed or thereafter tendered as proof, so long as such default continues."

Section 287-33, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 287-33 Notice of cancellation or termination of certified policy.**

When an insurance carrier has certified a motor vehicle liability policy under section 287-22 or a policy under section 287-23, the insurance so certified shall not be canceled or terminated until at least ten days after a notice of cancellation or termination of the insurance so certified is filed in the office of the administrator, except that such a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates."

Sections 287-35 to 287-42, Hawaii Revised Statutes, are amended to read as follows:

**"Sec. 287-35 Bond as proof.** (a) Proof of financial responsibility may be evidenced by the bond of a surety company duly authorized to transact business within the State, or a bond with at least two individual sureties each owning real estate within the State, and together having equities equal in value to at least twice the amount of the bond, which real estate shall be scheduled in the bond approved by the insurance commissioner, which bond shall be conditioned for payment of the amounts specified in section 287-1. The bond shall be filed with the administrator and shall not be cancelable except after ten days' written notice to the administrator. The bond shall constitute a lien in favor of the State upon the real estate so scheduled of any surety, which lien shall exist in favor of any holder of a final judgment against the person who has filed the bond, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use or operation of a motor vehicle after the bond was filed upon the filing of notice to that effect and the filing of a certified copy of the final judgment in the office of the registrar of conveyances.

(b) If such a judgment, rendered against the principal on the bond is not



satisfied within sixty days after it has become final, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action or actions in the name of the State against the company or persons executing the bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed the bond, such action to conform as near as may be with the procedure for the foreclosure of mortgages.”

**“Sec. 287-36 Money or securities as proof.** (a) Proof of financial responsibility may be evidenced by the certificate of the state director of finance that the person named therein has deposited with him \$25,000 in cash, or securities such as may legally be purchased for investment by insurance companies organized under chapter 431 of a market value of \$25,000. The state director of finance shall not accept any such deposit and issue a certificate therefor and the administrator shall not accept the certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

(b) The deposit shall be held by the director to satisfy, in accordance with this chapter any execution on a judgment issued against such person making the deposit, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use, or operation of a motor vehicle after the deposit was made. Money or securities so deposited shall not be subject to attachment or execution unless the attachment or execution arises out of a suit for damages as aforesaid.”

**“Sec. 287-37 Owner may give proof for others.** Whenever any person required to give proof of financial responsibility hereunder is or later becomes a driver in the employ of any owner, or is or later becomes a member of the immediate family or household of the owner, the administrator shall accept proof given by the owner in lieu of proof by the other person to permit the other person to operate a motor vehicle for which the owner has given proof as herein provided. The administrator shall designate the restrictions imposed by this section on the face of such person’s license.”

**“Sec. 287-38 Substitution of proof.** The administrator shall consent to the cancellation of any bond or certificate of insurance or the administrator shall direct and the state director of finance shall return any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter.”

**“Sec. 287-39 Other proof may be required.** Whenever any proof of financial responsibility filed under this chapter no longer fulfills the purposes for which required, the administrator shall, for the purpose of this chapter, require other proof as required by this chapter and shall suspend the license and registration or the nonresident’s operating privilege pending the filing of such other proof.”

**“Sec. 287-40 Duration of proof; when proof may be canceled or returned.** The administrator shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the administrator shall direct and the state director of finance shall return to the person entitled thereto any money or securities deposited pursuant to this chapter as proof of financial responsibility, or the administrator shall waive the requirement of filing proof, in any of the following events:

- (1) At any time after three years from the date the proof was required when, during the three-year period preceding the request, the administrator has not received record of a conviction which would require or permit the suspension or revocation of the license or nonresident's operating privilege of the person by or for whom the proof was furnished;
- (2) In the event of the death of the person on whose behalf the proof was filed or the permanent incapacity of the person to operate a motor vehicle;
- (3) In the event the person who has given proof surrenders his license to the administrator;

Provided, that the administrator shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon a liability covered by the proof is then pending or any judgment upon any such liability is then unsatisfied, or in the event the person who has filed the bond or deposited the money or securities, has, within one year immediately preceding the request been involved as a driver or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the administrator.

Whenever any person whose proof has been canceled or returned under subdivision (3) of this section applies for a license or registration within a period of three years from the date proof was originally required, any such application shall be refused unless the applicant reestablishes the proof for the remainder of the three-year period."

**"Sec. 287-41 Surrender of license on violation.** Any person whose license has been suspended as herein provided, or whose policy of insurance or bond, when required under this chapter, has been canceled or terminated, or who neglects to furnish other proof upon request of the administrator shall immediately surrender his license to the administrator. If any person fails to surrender to the administrator the license as provided herein, the administrator shall forthwith direct any police or other peace officer to secure possession thereof and return the same to the administrator."

**"Sec. 287-42 Self-insurers.** (a) Any person in whose name more than twenty-five motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the administrator as provided in subsection (b) of this section.

(b) The administrator may, in his discretion, upon the application of such a person, issue a certificate of self-insurance when he is satisfied that the person is possessed and will continue to be possessed of ability to pay judgments obtained against such person.

(c) Upon not less than five days' notice and a hearing pursuant to the notice, the administrator may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay any judgment within thirty days after the judgment has become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance."

Section 287-44, Hawaii Revised Statutes, is amended by amending subsection

(b) to read as follows:

“(b) The administrator shall have the right to suspend the license of any person failing to make any report required hereunder until the report has been filed and for such further period not to exceed thirty days as the administrator may fix.”

Section 287-48, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 287-48 Application of chapter to suspensions and revocations prior to January 1, 1950.** Notwithstanding any provision herein to the contrary, the administrators of the several counties may accept the prescribed proof of financial responsibility from any person whose license has been suspended or revoked on account of a conviction based on an offense occurring prior to January 1, 1950, and who now applies for the issuance of a license. Upon acceptance of such proof, the duration, cancellation, or return thereof shall be governed by section 287-40.

The administrators may also waive the requirement of furnishing such proof if the person mentioned in the preceding paragraph, for a period of three years prior to his application for a license, has not been convicted of any additional offense or offenses which would require or permit the suspension or revocation of a license.

The duration, cancellation, or return of any proof of financial responsibility filed and maintained with the state director of finance prior to January 1, 1950, shall be governed by section 287-40.”

SECTION 2. 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 3. This Act shall take effect upon its approval.

(Approved May 21, 1980.)

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