

ACT 190

H.B. NO. 2385-82

A Bill for an Act Relating to Civil Liability in Motor Vehicle Accident Reparations.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to emphasize that the criminal and civil liability of a person subject to section 294-6(d), Hawaii Revised Statutes, shall not be limited in any manner. Recently, the Third Circuit Court has ruled that a person subject to subsection (d) shall not be liable for general damages. The legislature, however, intends that there be no limitation to civil liability, and thus, should include special and general damages.

SECTION 2. Section 294-6, Hawaii Revised Statutes, is amended to read as follows:

"§294-6 Abolition of tort liability. (a) Tort liability of the owner, operator or user of an insured motor vehicle, or the operator or user of an uninsured motor vehicle who operates or uses such vehicle without reason to believe it to be an uninsured motor vehicle, with respect to accidental harm arising from motor vehicle accidents occurring in this State, is abolished, except as to the following persons or their personal representatives, or legal guardians, and in the following circumstances:

- (1) Death occurs to such person in such a motor vehicle accident; or injury occurs to such person which consists, in whole or in part, in a significant permanent loss of use of a part or function of the body; or injury occurs to such person which consists of a permanent and serious disfigurement which results in subjection of the injured person to mental or emotional suffering;
- (2) Injury occurs to such person in a motor vehicle accident in which the amount paid or accrued exceeds the medical-rehabilitative limit established in section 294-10(b) for expenses provided in section 294-2(10)(A) and (B);
- (3) Injury occurs to such person in such an accident and as a result of such injury the aggregate limit of no-fault benefits outlined in section 294-2(10) payable to such person are exhausted.

(b) No claim may be made for benefits under the uninsured motorist coverage by an injured person against an insurer who has paid or is liable to pay no-fault benefits to such injured person unless such claim meets the requirements of the foregoing section (a)(1), (2) or (3).

(c) No provision of this chapter shall be construed to exonerate, or in any manner to limit, the liability of any person in the business of manufacturing, retailing, repairing, servicing, or otherwise maintaining motor vehicles, arising from a defect in a motor vehicle caused, or not corrected, by an act or omission in the manufacturing, retailing, repairing, servicing, or other maintenance of a vehicle in the course of his business.

(d) No provision of this section shall be construed to exonerate, or in any manner to limit the criminal or civil liability, including special and general damages, of any person who, in the maintenance, operation, or use of any motor vehicle;

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- (1) Intentionally causes injury or damage to a person or property; or
- (2) Engages in criminal conduct which causes injury or damage to person or property; or
- (3) Engages in conduct resulting in punitive or exemplary damages.
- (e) No provision of this section shall be construed to abolish tort liability with respect to property damage arising from motor vehicle accidents."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 9, 1982.)