

ACT 97

H.B. NO. 1859-86

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

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 as follows:

- “(10) “No-fault benefits”, sometimes referred to as personal injury protection 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 nonmedical 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) \$900 a 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] a 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 294-4, Hawaii Revised Statutes, is amended to read as follows:

“§294-4 Obligation to pay no-fault benefits. Every no-fault insurer and self-insurer shall provide no-fault benefits, sometimes referred to as personal injury protection benefits, for accidental harm as follows:

- (1) Except as otherwise provided in section 294-5(c):
 - (A) In the case of injury arising out of a motor vehicle accident to any person, including the owner, operator, occupant, or user of the insured motor vehicle, or any pedestrian (including a bicyclist), or any user or operator of a moped as defined in section 249-1, but not including any operator of a motorcycle or motor scooter as defined in section 286-2, who sustains accidental harm as a result of the operation, maintenance, or use of the vehicle, the insurer shall pay, without regard to fault, to the person an amount equal to the no-fault benefits payable to the person as a result of the injury; or
 - (B) In the case of death arising out of a motor vehicle accident of any person, including the owner, operator, occupant, or user of the insured motor vehicle, or any pedestrian (including a bicyclist), or any user or driver of a moped as defined in section 249-1, but not including any operator of a motorcycle or motor scooter as defined in section 286-2, who sustains accidental harm as a result of the operation, maintenance, or use of the vehicle, the insurer shall pay, without regard to fault, to the legal representative of the person, for the benefit of the surviving spouse and any dependent, as defined in section 152 of the Internal Revenue Code of 1954, as amended, of the person, an amount equal to the no-fault benefits payable to the spouse and dependent as a result of the death of the person, subject, however, to [the provisions of] section 294-2(10).
- (2) Payment of no-fault benefits shall be made as the benefits accrue, except that in the case of death, payment of the benefits may, at the option of the beneficiary, be made immediately in a lump sum payment.
- (3) Payment of no-fault benefits shall be made within thirty days after the insurer has received reasonable proof of the fact and amount of benefits accrued, and demand for payment thereof. If the insurer elects to deny a claim for benefits in whole or in part, the insurer shall within thirty days notify the claimant in writing of denial and the reasons for the denial. The denial notice shall be prepared and mailed by the insurer in triplicate copies and be in a format approved by the commissioner. If the insurer cannot pay or deny the claim for benefits because additional information or loss documentation is needed, the insurer shall, within the thirty days, forward the claimant an itemized list of all the required documents.
- (4) Amounts of benefits which are unpaid thirty days after the insurer has received reasonable proof of the fact and amount of benefits accrued, and demand for payment thereof, after the expiration of the thirty days, shall bear interest at the rate of one and one-half per cent per month.
- (5) No part of no-fault benefits paid shall be applied in any manner as attorney's fees in the case of injury or death for which the benefits are paid. The insurer shall pay, subject to section 294-30, in addition to the no-fault benefits due, all attorney's fees and costs of

settlement or suit, necessary to effect the payment of any or all no-fault benefits found due under the contract. Any contract in violation of this provision shall be illegal and unenforceable, and it shall constitute an unlawful and unethical act for any attorney to solicit, enter into, or knowingly accept benefits under any such contract.

- (6) Any insurer who violates [the provisions of] this section shall be subject to [the provisions of subsections] section 294-39(b) and (c).”

SECTION 3. Section 294-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In order to [be] meet the requirements of a no-fault policy[,] as provided in this chapter, an insurance policy covering a motor vehicle shall provide, in addition to the [coverage] no-fault benefits, sometimes referred to as the personal injury protection benefits, specified in section 294-4, insurance to pay on behalf of the owner or any operator of the insured motor vehicle using the motor vehicle with the express or implied permission of the named insured, sums which the owner or operator may legally be obligated to pay for injury, death, or damage to property of others, except property owned by, being transported by, or in the charge of the insured, which arise out of the ownership, operation, maintenance, or use of the motor vehicle:

- (1) Liability coverage of not less than \$35,000 for all damages arising out of accidental harm sustained by any one person as a result of any one accident applicable to each person sustaining accidental harm arising out of ownership, maintenance, use, loading, or unloading, of the insured vehicle;
- (2) Liability coverage of not less than \$10,000 for all damages arising out of injury to or destruction of property including motor vehicles and including the loss of use thereof, but not including property owned by, being transported by, or in the charge of the insured, as a result of any one accident arising out of ownership, maintenance, use, loading, or unloading, of the insured vehicle.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 28, 1986.)