

ACT 253

S.B. NO. 2837

A Bill for an Act Relating to Motor Vehicle Insurance.

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

SECTION 1. The purpose of this Act is to make clear that the legislature does not intend that free no-fault auto insurance be provided to welfare recipients who use their motor vehicles for commercial purposes. The Act also provides free no-fault auto insurance to unlicensed permanently disabled individuals who are unable to operate their vehicles.

SECTION 2. Section 431:10C-407, Hawaii Revised Statutes, is amended to read as follows:

“§431:10C-407 Classifications. (a) The commissioner shall establish classifications of eligible persons and uses for which the joint underwriting plan shall provide both the required no-fault policies and any optional additional insurance an eligible person or user applies for. The commissioner shall, by regulation, establish, implement, and supervise the joint underwriting plan, through the bureau, assuring that insurance for motor vehicles will be conveniently and expeditiously afforded, subject only to payment or provision for payment of the premium, to all applicants for insurance required by this part to provide insurance for payment of no-fault and tort liability insurance, or optional additional benefits, and who cannot reasonably obtain insurance at rates not in excess of those applicable to applicants under the plan.

(b) The plan shall provide all no-fault benefits and services, and tort liability coverage to the limits and coverages specified in this article for all classes of persons, motor vehicles and motor vehicle uses specified in this article upon the payment of premiums as provided in subpart C, as follows:

(1) The plan shall provide no-fault benefits and policies for each of the following classes, and each class shall be able to secure a no-fault and tort liability policy through the plan:

(A) All motor vehicles owned by licensed assigned risk drivers as the commissioner, by rules, shall define. The commissioner shall regulate the class in accordance with the general practice of the industry, the applicable results, if any, of the commissioner’s examination of the motor vehicle insurers’ business records and experience, and any applicable and scientifically credible governmental or academic studies of the multi-accident or high-risk automobile driver.

(B) All motor vehicles owned by licensed drivers convicted within the thirty-six months immediately preceding the date of application, in any jurisdiction of any one or more of the offenses of, or of the offenses cognate to:

- (i) Heedless and careless driving;
- (ii) Driving while license suspended or revoked;
- (iii) Leaving the scene of an accident;
- (iv) Manslaughter, if resulting from the operation of a motor vehicle; or
- (v) Driving under the influence of an intoxicating liquor as provided in section 291-4 or any drug, except marijuana, as provided in section 291-7.

(C) All commercial uses, first class, defined as any commercial use engaged in the transport of passengers for hire or gratuity.

(D) All commercial uses, second class, defined as any commercial, business, or institutional use other than the transport of passengers as described in []subparagraph[] (C) or the exclusive use of a vehicle for domestic-household-familial purposes.

(2) The plan shall provide no-fault benefits and policies for all classes of persons, motor vehicles, and motor vehicle uses, at the premiums specified under subpart C, at the options of the owners, for the following classes, which the commissioner, by rules, shall further define and regulate:

(A) All licensed drivers, or unlicensed permanently disabled individuals unable to operate their motor vehicles, who are re-

ceiving public assistance benefits consisting of medical services or direct cash payments through the department of [social] human services [and housing], or benefits from the supplemental security income program under the social security administration; provided that the licensed drivers, or unlicensed permanently disabled individuals unable to operate their motor vehicles, are the sole registered owners of the motor vehicles to be insured; provided further that not more than one vehicle per public assistance unit shall be insured under this part, unless extra vehicles are approved by the department of [social] human services [and housing] as being necessary for medical or employment purposes[.]; provided further that the motor vehicle to be insured shall be used strictly for personal purposes, and not for commercial purposes.

- (B) Any licensed physically handicapped driver, including drivers with any auditory limitation.

Each category of driver/owner under [[subparagraphs]] (A) and (B) may secure no-fault coverage through the plan at the individual's option, provided any previous no-fault policy has expired or has been cancelled. Any person becoming eligible for plan coverage under [[subparagraph]] (A) shall first exhaust all paid coverage under any no-fault policy then in force before becoming eligible for plan coverage.

Any person eligible or becoming eligible under rules adopted by the commissioner under [[subparagraph]] (B), may at any time elect coverage under the plan and terminate any prior private insurer's coverage.

A certificate shall be issued by the department of [social] human services [and housing] indicating that the person is a bona fide public assistance recipient as defined in [[subparagraph]] (A). The certificate shall be deemed a policy for the purposes of chapter 431 upon the issuance of a valid no-fault insurance identification card pursuant to section 431:10C-107.

- (3) Under the joint underwriting plan, all basic no-fault coverages, including the basic no-fault policy, the mandatory \$35,000 public liability and the \$10,000 property damage policies shall be offered by every insurer to each eligible applicant assigned by the bureau. In addition, optional additional coverages shall be offered by every insurer in conformance with section 431:10C-302, for each class except that defined in [[paragraph]] (2)(A), as the commissioner, by rules, shall provide.

(c) The commissioner may further refine the definitions of the classifications provided for in subsection (b)."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 25, 1990)