

ACT 149

S.B. NO. 741

A Bill for an Act Relating to Motor Vehicle Insurance.

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

SECTION 1. Section 431:10C-305, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) (1) Except as provided in [item] paragraph (2), no-fault benefits shall be paid primarily from the following sources in the following conditions:
- (A) The insurance on the vehicle occupied by the injured person at the time of the accident, or
 - (B) The insurance on the vehicle which caused accidental harm if the injured person is a pedestrian (including a bicyclist).
- If there is no insurance on the vehicle, any other no-fault insurance applicable to the injured person shall apply.
- No person shall recover no-fault benefits from more than one insurer for accidental harm as a result of the same accident.
- (2) All no-fault benefits shall be paid secondarily and net of any benefits a person is entitled to receive because of the accidental harm from workers’ compensation laws; provided that:
- (A) The total amount a person is entitled to receive for monthly earnings loss under this article shall be limited to the amount set out in section [[431:10C-103(10)(A)(iii)]] or the amount of any applicable coverage under section 431:10C-302, without any deduction of any amount received as compensation for lost earnings under any workers’ compensation law;
 - (B) The aggregate of the payments from both sources shall not exceed eighty per cent of the person’s monthly earnings as monthly earnings are defined in section 431:10C-103(7); and]. However, if the person’s employer provides both workers’ compensation and no-fault payments, the aggregate shall not exceed the person’s net monthly earnings (computed by subtracting the total of federal and state income taxes and employee social security contributions from the gross monthly earnings), provided that the workers’ compensation payments shall not be less than required by chapter 386; and

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(C) This section shall [be inapplicable] not apply to benefits payable to a surviving spouse and any surviving dependent as provided under section 431:10C-304.

If the person does not collect such benefits under the workers' compensation laws by reason of the contest of this right to so collect by the person or organization responsible for payment thereof, the injured person, if otherwise eligible, shall, nevertheless, be entitled to receive no-fault benefits and, upon payment thereof, the no-fault insurer shall be subrogated to the injured person's rights to collect such benefits."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved May 22, 1991.)