

ACT 231

S.B. NO. 2411

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 allow judges to suspend any penalty, or grant community service in lieu of any penalty, for a motor vehicle insurance violation if the defendant provides proof of having a current motor vehicle insurance policy.

SECTION 2. Section 431:10C-117, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:
 - “(a) (1) Any person subject to this article in the capacity of the operator, owner, or registrant of a motor vehicle in this State, or registered in this State, who violates any applicable provision of this article, shall be subject to citation for the violation by any county police department in a form and manner approved by the violations bureau of the district court of the first circuit[.];
 - (2) Notwithstanding any provision of the Hawaii Penal Code:
 - (A) Each violation shall be deemed a separate offense and shall be subject to a fine of not less than \$100 nor more than \$5,000 which shall not be suspended except as provided in subparagraph (B);
 - (B) If the person is convicted of not having had a motor vehicle insurance policy in effect at the time the citation was issued, the fine shall be \$500 for the first offense and a minimum of \$1,500 for each subsequent offense that occurs within a five-year period from any prior [conviction;] offense; provided that the judge:
 - (i) Shall have the discretion to suspend all or any portion of the fine [for the first offense] if the defendant provides proof of having a current motor vehicle insurance policy; provided further that upon the defendant’s request, the judge may grant community service in lieu of the fine, of not less than seventy-five hours and not more than one hundred hours for the first offense, and not less than two hundred hours nor more than two hundred seventy-five hours for the second offense; and

- (ii) May grant community service in lieu of the fine for subsequent offenses at the judge's discretion[.];
 - (3) In addition to the fine in paragraph (2), [for the first conviction within a five-year period for the offense of driving without motor vehicle insurance policy,] the court shall either:
 - (A) Suspend the driver's license of the driver or of the registered owner for [three]:
 - (i) Three months[.] for the first conviction; and
 - (ii) One year for any subsequent offense within a five-year period from a previous offense;

provided that [they] the driver or the registered owner shall not be required to obtain proof of financial responsibility pursuant to section 287-20; or
 - (B) Require the driver or the registered owner to keep a nonrefundable motor vehicle insurance policy in force for six months[.];

[In addition to the fine in paragraph (2), if the violation is a subsequent offense of driving without a valid motor vehicle insurance policy, within a five-year period of any prior conviction, the driver's licenses of the driver or the registered owner shall be suspended for one year and the driver or the registered owner shall be required to maintain proof of financial responsibility pursuant to section 287-20.]
 - (4) Any person cited under this section shall have an opportunity to present a good faith defense, including but not limited to lack of knowledge or proof of insurance. The general penalty provision of this section shall not apply to:
 - (A) Any operator of a motor vehicle owned by another person if the operator's own insurance covers such driving;
 - (B) Any operator of a motor vehicle owned by that person's employer during the normal scope of that person's employment; or
 - (C) Any operator of a borrowed motor vehicle if the operator holds a reasonable belief that the subject vehicle is insured[.];

and

 - (5) In the case of multiple convictions for driving without a valid motor vehicle insurance policy within a five-year period from any prior [conviction,] offense, the court, in addition to any other penalty, shall impose the following penalties:
 - (A) Imprisonment of not more than thirty days;
 - (B) Suspension or revocation of the motor vehicle registration plates of the vehicle involved;
 - (C) Impoundment, or impoundment and sale, of the motor vehicle for the costs of storage and other charges incident to seizure of the vehicle, or any other cost involved pursuant to section 431:10C-301; or
 - (D) Any combination of those penalties."
2. By amending subsection (d) to read:
- "(d) (1) Violations of subsections (b) and (c) shall be subject to the construction that each repetition of such act shall constitute a separate violation[.]; and
 - (2) The imposition of any civil penalty under [subsections] subsection (a), (b), or (c) shall be in addition to, and shall not in any way limit or affect the application of, any other civil or criminal penalty, or public safety condition or requirement, provided by law."

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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 July 20, 1998.)