

## ACT 142

S.B. NO. 957

A Bill for an Act Relating to Motor Vehicle Insurance.

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

SECTION 1. The motor vehicle insurance benefits task force (task force) was created by Act 251, Session Laws of Hawaii 1997, which instituted major reforms to the no-fault system. The task force was to review the motor vehicle insurance system and develop a comprehensive plan for reducing costs, paying for the cost of motor vehicle insurance or benefits, maximizing coverage and benefits, and alleviating the problem of uninsured motorists. The legislature finds that the task force has been studying issues such as pay-at-the-pump, twenty-four hour care, enforcing uninsured motorist requirements, possible repeal of required motor vehicle insurance, and repealing the requirement for personal injury protection coverage, and needs more time to complete its study and to make recommendations to the legislature. The legislature further finds that the State's actuary cannot make an actuarial analysis of Act 251 until at least eighteen months from the implementation of the Act, which took effect January 1, 1998.

The purpose of this Act is to extend the date of the motor vehicle insurance benefits task force for its report to the legislature and the governor. This Act also provides certain public assistance recipients with free no-fault insurance coverage.

SECTION 2. Act 251, Session Laws of Hawaii 1997, is amended by amending section 65 to read as follows:

“SECTION 65. There is established a motor vehicle insurance benefits task force that shall be administratively attached to the insurance division of the department of commerce and consumer affairs.

The task force shall consist of the following three members:

- (1) The insurance commissioner;
- (2) One person appointed by the governor from a list submitted by the president of the senate; and
- (3) One person appointed by the governor from a list submitted by the speaker of the house of representatives.

If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled. The members shall serve without compensation but shall be reimbursed for all necessary expenses.

The task force shall review the motor vehicle insurance system and develop a comprehensive plan for:

- (1) Reducing costs;
- (2) Paying for the cost of motor vehicle insurance or benefits;
- (3) Maximizing coverage and benefits for residents; [and]
- (4) Balancing the maximum coverage and benefits for victims of motor vehicle accidents with the lowest possible cost for purchasers of motor vehicle insurance; and
- (5) Alleviating the problem of uninsured motorists.

In assisting the task force to carry out this section, the insurance commissioner may:

- (1) Hire, without regard to chapters 76 and 77, Hawaii Revised Statutes, sufficient staff and retain, without regard to chapter 103D, Hawaii Revised Statutes, consultants or other persons to provide those services deemed by the task force necessary to carry out its function; and

- (2) Conduct informational hearings and compel, through the issuance of subpoenas, the attendance of witnesses and the production of documents and records.

The task force shall submit a progress report to the legislature and the governor no later than twenty days prior to the convening of the regular session of 1998 and a report of its final recommendations to the legislature and the governor no later than [twenty days prior to the convening of the regular session of 1999.] June 30, 2000."

SECTION 3. Section 431:10C-407, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The plan shall provide all personal injury protection benefits and services and bodily injury and property damage liability coverages to the limits and coverages specified in this article for all classes of persons, motor vehicles, and motor vehicle uses specified in this part upon the payment of premiums as provided in subpart C, as follows:

- (1) The plan shall provide personal injury protection benefits and policies for each of the following classes, and each class shall be able to secure a personal injury protection and bodily injury and property damage 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 motor vehicle 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 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; and
  - (E) All other motor vehicles, not classified under subparagraph (A), (B), (C), or (D), owned by licensed drivers who are unable to obtain motor vehicle insurance policies and optional additional insurance through ordinary methods;
- (2) The plan shall provide personal injury protection benefits and bodily injury and property damage policies for all classes of persons, motor vehicles, and motor vehicle uses, at the premiums specified under

subpart C, at the option 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 receiving public assistance benefits consisting of direct cash payments, or who received public assistance benefits in the form of medical services prior to July 1, 1994, and are still receiving the benefits, through the department of human services, or benefits from the [supplemental security income] 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 human services 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; and
- (B) Any licensed physically handicapped driver, including drivers with any auditory limitation.

Each category of driver/owner under subparagraphs (A) and (B) may secure motor vehicle insurance coverage through the plan at the individual's option; provided any previous motor vehicle insurance policy has expired or has been canceled. Any person becoming eligible for plan coverage under subparagraph (A) shall first exhaust all paid coverage under any motor vehicle insurance 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 human services 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 this chapter [431] upon the issuance of a valid motor vehicle insurance identification card pursuant to section 431:10C-107; and

- (3) Under the joint underwriting plan, the required motor vehicle policy coverages as provided in section 431:10C-301 shall be offered by every insurer to each eligible applicant assigned by the bureau. In addition, uninsured motorist and underinsured motorist coverages shall be offered in conformance with section 431:10C-301, and optional additional coverages shall be offered in conformance with section 431:10C-302, for each class except [that] the class defined in paragraph (2)(A), as the commissioner, by rules, shall provide."

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 June 28, 1999.)