

JAN 28 2009

A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

- 1 SECTION 1. Section 431:10C-109, Hawaii Revised Statutes,
2 is amended to read as follows:
- 3 "§431:10C-109 Motor vehicle insurance identification card
4 after cancellation of policy; return to insurer, civil
5 sanctions. (a) When a motor vehicle insurance policy is
6 canceled before the end of the policy period, the insured shall,
7 within thirty days after being notified of the cancellation:
- 8 (1) Return the motor vehicle insurance identification card
9 to the insurer for the policy; or
- 10 (2) If the card is lost or stolen, submit to the insurer
11 an affidavit signed by the insured stating that fact
12 to the insurer.
- 13 (b) The insurer's notice of cancellation shall include:
- 14 (1) The reason for the cancellation; and
15 (2) A statement of actions which may be taken under this
16 section if the card is not returned.



1 (c) If the card or affidavit is not returned within the
2 period specified, the insurer may:

3 (1) If the premiums for the period shown on the motor
4 vehicle insurance identification card have been
5 prepaid, withhold the unearned portions of the
6 premiums until the identification card or an affidavit
7 signed by the insured has been returned. In addition,
8 all premiums shall be considered "earned" until the
9 card is returned.

10 (2) If the premiums for the period shown on the
11 identification card have not been paid in full, bring
12 a civil action for three times the unpaid portion of
13 the premiums. Notwithstanding section 607-14, the
14 insurer shall be awarded reasonable attorney's fees
15 and court costs. If the motor vehicle insurance
16 identification card is returned after the civil action
17 is filed but before the matter is taken to trial, the
18 insurer shall be awarded damages of not less than
19 \$100, but not more than the amount of the unpaid
20 premiums together with reasonable attorney's fees and
21 costs as provided in this section.

22



- 1 (d) When a motor vehicle insurance policy is canceled by
2 the insured before the end of the policy period, in addition to
3 the requirements of subsection (a), the insured shall, within
4 seven days of the cancellation:
- 5 (1) Submit proof to the insurer that the insured has
6 obtained alternate motor vehicle insurance coverage
7 for any vehicles covered under the policy;
- 8 (2) Submit proof to the insurer that title of the vehicle
9 covered under the policy has been transferred from the
10 insured;
- 11 (3) Submit a police report to the insurer reporting the
12 theft of the vehicle; or
- 13 (4) Submit proof that the vehicle has been rendered
14 inoperable.
- 15 (e) If the proof of alternate insurance, transfer of
16 title, or vehicle inoperability required under subsection (b) is
17 not submitted to the insurer, the insurer shall not return any
18 portion of the unearned premium.
- 19 [~~d~~] (f) Notwithstanding the provisions of this section,
20 the imposition of criminal sanctions under section 431:10C-117
21 shall not be precluded."



S.B. NO. 1216

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

3 SECTION 3. This Act shall take effect on July 1, 2009.

4

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Report Title:

Motor Vehicle Insurance; Cancellation; Civil Sanctions

Description:

Prohibits the return of unearned premiums after cancellation of a motor vehicle insurance policy unless the insured provides proof of alternate coverage or proof of transfer of title, theft of the vehicle, or inoperability of the vehicle.





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TO THE SENATE COMMITTEE ON COMMERCE
AND CONSUMER PROTECTION

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

Wednesday, February 25, 2009
8:30 a.m.

**TESTIMONY ON SENATE BILL NO. 1216 – RELATING TO MOTOR VEHICLE
INSURANCE.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is J.P. Schmidt, State Insurance Commissioner (“Commissioner”),
testifying on behalf of the Department of Commerce and Consumer Affairs
(“Department”). The Department supports the intent of this bill, which is to address the
problem of uninsured motorists.

The purpose of this bill is to add new subsections to Hawaii Revised Statutes
(“HRS”) § 431:10C-109 by requiring an insured who cancels a motor vehicle insurance
policy before the end of the policy period to submit proof that alternative motor vehicle
insurance coverage has been obtained, title has been transferred, or the vehicle has
been stolen or is inoperable. Where proof is not provided to the insurer within seven
days of the policy cancellation, the insurer is not required to return any portion of the
unearned premium. These provisions apply in addition to those in HRS § 431:10C-
109(a).

The Department is aware that some insureds obtain coverage to get their vehicle
registered, to satisfy vehicle safety inspection requirements, or to provide the court with

proof of insurance (after being ticketed for driving an uninsured vehicle) and thereafter cancel the policy.

Currently, HRS § 431:10C-109(a) requires an insured to return the motor vehicle insurance identification card to the insurer within 30 days after being notified of the cancellation, unless the insured submits an affidavit stating that the card is lost or stolen. Where the card or affidavit is not returned within the specified time period, the insurer may withhold the unearned portion of the premium; i.e., all premiums are considered “earned” by the insurer until the card is returned, pursuant to HRS § 431:10C-109(b).

This bill may require additional language to clarify whether the unearned premium is “earned” by the insurer such that coverage continues for a period of time equal to the amount of the unearned premium; i.e., the unearned premium is applied towards coverage.

It is also unclear whether the insurer is required to issue any written notice of cancellation after the insured cancels the policy and whether the seven-day period in subsection (d) runs concurrently or consecutively with the 30-day period in subsection (a).

We thank this Committee for the opportunity to present testimony on this matter.



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Alison Powers
Executive Director

TESTIMONY OF ALISON POWERS

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator David Y. Ige, Vice Chair

Wednesday, February 25, 2009

8:30 a.m.

SB 1216

Chair Baker, Vice Chair Ige and members of the Committee, my name is Alison Powers, Executive Director of Hawaii Insurers Council. Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 60% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** S.B. 1216. This bill would create significant administrative costs, potentially create overlapping coverage for the same vehicle, and would do little to reduce the number of uninsured motorists on the road.

The bill attempts to address uninsured motorists who game the system by obtaining insurance when necessary and cancelling it shortly thereafter and getting a refund for the remaining premiums paid. Most motor vehicle insurance policies are 6-months, so the most unearned premium an insurer could have is something less than 6 months. However, those who are knowingly trying to skirt the law are not likely to purchase a 6-month policy. These people will purchase the smallest increment of insurance possible, via premium financing, which could be a monthly payment. Therefore any cancellation would yield something less than 30 days' of unearned premium. This small amount is

not likely to persuade one to show proof of a subsequent insurer and would not yield results from one gaming the system.

In addition, many, or more likely most insureds cancel coverage by simply not paying an installment bill when due. This type of cancellation does not generate an earned premium based on the way insurance company billing systems are programmed. Therefore, the penalties in this bill will never effectively apply to most cancellations.

Finally, there are other reasons why an individual may cancel a policy, such as a person moving away from Hawaii or a soldier being deployed in the military whose vehicle will be stored. The bill makes no provision for such scenarios.

Hawaii Insurers Council supports instead a no pay, no play system where those who choose to not purchase insurance do not get to collect noneconomic losses in a motor vehicle crash.

We respectfully request that S.B. 1216 be held.

Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 21, 2009 3:06 PM
To: CPN Testimony
Cc: refrey2001@yahoo.com
Subject: Testimony for SB1216 on 2/25/2009 8:30:00 AM

Testimony for CPN 2/25/2009 8:30:00 AM SB1216

Conference room: 229
Testifier position: support
Testifier will be present: No
Submitted by: Richard Frey
Organization: Individual
Address:
Phone:
E-mail: refrey2001@yahoo.com
Submitted on: 2/21/2009

Comments:

I support this bill. It will help keep drivers insured. It is also enforceable, reasonable, and will obtain the desired result of removing the incentive to cancel insurance to receive a refund, without increasing cost to others.