



UNIVERSITY OF HAWAI'I SYSTEM

TESTIMONY

SB 110

RELATING TO MOTORCYCLES AND
MOTOR SCOOTERS

Testimony Presented Before the
Senate Committee on Commerce,
Consumer Protection,
and Housing

February 25, 2005

by

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S.B. 110 Relating to Motorcycles and Motor Scooters

Chair Menor and Members of the Committee:

I am submitting this testimony in opposition to Senate Bill 110.

In its current form, 431:10G-104 (b) has great impact upon the work of the Leeward Community College Motorcycle Safety Education Program. It is through this provision that we see our greatest ability to influence Hawaii's roadway motorcycle crash data and assure that the new rider has a modicum of knowledge and skill leading up to their on-street experience.

Persons already licensed have proven their knowledge and skills abilities through some form of testing mechanisms. These skills and knowledge may have been acquired through years of practice and finally proven at the DMV through both a motorcycle knowledge test and the riding skills test, or they may have been acquired through a the Leeward Community College Motorcycle Safety Education Program. For the new rider who has purchased a motorcycle and does not have enough knowledge and/or skill to ride safely on Hawaii's streets or pass the tests administered at the DMV, 431:10G-104 (b) offers a temporary solution for the "Catch 22" that would otherwise appear to exist if

only Subsections (a) (1) and (2) existed. Subsection (b) enables the neophyte to temporarily insure the motorcycle for a period of up to 90 days, provided that the insured registers for, attends, and successfully completes a rider training program. The insured is then able to meet any of the earlier requirements of the statute for acquisition of insurance coverage.

In order to deliver the services required by subsection (b), a number of procedures and checks have been implemented by the Leeward Community College Motorcycle Safety Education Program which assure we are able to comply with the statutory requirements of the enactment and provide the necessary advisements to the insurers should the insured fail to meet the standards established. When broken down into the component steps, one can readily discern that all aspects of the law are complied with, unless the insurer is willing to flagrantly disregard Hawaii's intended safeguards toward an educated riding population.

The first requirement of 431:10G-104 (b) is for the insurance applicant to have obtained a learner's permit.

This is a simple matter of the applicant passing a 25 question quiz at a DMV office. If 20 questions of the 25 questions are answered correctly, an instruction permit is issued to the license applicant.

The second requirement of 431:10G-104 (b) is for the insurance applicant to enroll in an approved motorcycle education course.

Leeward Community College Motorcycle Safety Education Program is the approved motorcycle education course.

The applicant enrolls either at our office by mail or in person, or can enroll at the agency office. Course fee is collected by cash, cashier's check or money order to assure

that enrollment is perfected without the possibility of a returned check for NSF or “Stop Pay”, thus assuring that the applicant has secured a seat in a specific class which will complete within the 90 day binder period allowed.

(Note: When enrolling at the Insurance Agency, the Agent forwards either an Agency issued check, or the applicant’s money order or cashier’s check payable to the University of Hawaii, together with the enrollment application to our offices.)

The third requirement of 431:10G-104 (b) is for the insurance applicant to submit proof to the insurer of the applicant’s enrollment in an approved motorcycle education course.

The “proof of enrollment” document is only issued by our office upon request, and it is faxed directly to the Insurance Agency issuing the Temporary Insurance Binder. It is via the request for, and subsequent issuance of, this document that the Motorcycle Safety Education Program is advised of the necessity to flag the student’s record, track the student’s performance, and complete the student’s training within the 90 day envelope.

The Leeward Community College Motorcycle Safety Education Program faxes the proof of enrollment directly to the Agency for a number of reasons.

1. When faxed to a specific agency, we know where to direct all future correspondence regarding the student’s compliance.
2. When faxed directly to the Agency, the insurer is assured that the document is official, and that it was generated by the approved motorcycle education course.
3. Faxing directly to the company assures that once issued the student doesn’t lose the document.
4. Faxing directly to the Agency assures the system integrity is maintained.

The fourth requirement of 431:10G-104 (b) is advisement to the insurance should the applicant/student fail to take, complete, and pass the course for which proof was submitted.

If the applicant withdraws from the course, it would be impossible for the applicant to attend the course. Hence, withdrawal by an insured, after the proof of enrollment has been issued, is not permitted.

The student record is flagged at the time that the proof of enrollment is issued and the record is examined at each step of the process.

1. After each scheduled class meeting, it is checked to make sure the student attended.
2. At the end of the class, the record is checked to assure that the student successfully completed the training.

If the insured/student either fails to attend or fails to successfully complete the training, a notice is generated by the Motorcycle Safety Education Program to advise the underwriter that the client failed to meet the statutory obligations under the insurance chapter.

The fifth matter 431:10G-104 (b) is the matter of cancellation of the 90 day binder. The statute reads that the “The temporary insurance binder shall be subject to cancellation” should the insured fail to take, complete and pass the course. “Subject to cancellation” seems to be an ambiguous term and some insurers feel that cancellation is discretionary, rather than mandated.

The most egregious oversight created by this proposed amendment is that there is no longer requirement for proof of the registration in the approved motorcycle education course.

~~(b) [A temporary insurance binder covering a period of not more than ninety days] A motorcycle or motor scooter insurance policy may be issued to a person who has a valid motorcycle or motor scooter learner's permit[. To obtain a temporary binder, a person shall submit proof to the insurer of the person's enrollment] and enrolls in an approved motorcycle education course. [The temporary insurance binder shall be subject to cancellation should the person fail to take, complete, and pass the course for which proof was submitted to the insurer.]~~

New language created by S.B. 110 allows for “after the fact” compliance, but does not provide any timelines by which the compliance must follow.

(c) A motorcycle or motor scooter insurance policy shall be cancelled if:

(1) The insurer does not receive a copy of:

(A) The motorcycle or motor scooter license; or

(B) The motorcycle or motor scooter permit and confirmation provided directly by the course provider of enrollment in an approved motorcycle education course; or

Subsection (1) (A) does not provide for any timeline in which the insured needs to submit the license. Submission of all documentation is allowed as an after the fact function. Similarly, in subsection (1) (B), the course provider has no timelines or deadlines for submission of the “confirmation” document. Additionally, without being

advised at inception of coverage, the Motorcycle Safety Education Program office would have no knowledge of where to send the “confirmation” nor would we know that one was even required. Thus, the current law would be amended by this measure to set up a completely unenforceable system and one in which we be left unable to responsibly comply.

As in subsection (1) (A), subsection (2) sets up a situation wherein the approved motorcycle education course, has no knowledge that the policy has been started, no knowledge of who the agent or the underwriter is, and no way of determining when or where the “notification” should be sent. We will be left unable to comply with the provisions.

(2) The insurer is notified that a person who was issued a policy under subsection (b) failed, was dropped from, or withdrew from the motorcycle education course for which proof of enrollment was submitted to the insurer, unless the person has since obtained and provides the insurer with a copy of a motorcycle or motor scooter license."

A second, and devastatingly unjust, provision of subsection (2) is that it allows for withdrawal from the course should the insured secure their license prior to taking the course. Will we be required to hold students on our rolls pending their final attempt at licensing, indefinitely, just to act as a servicing agency for insurers? Enrollments, initiated with the intent to become withdrawals are a complete waste of our staff time. By setting up a parameter for withdrawal, this measure would, in effect, create policy relating to enrollments and withdrawals from University sponsored courses.

Thank you for the opportunity to testify on this bill.