



GOV. MSG. NO. 812

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

June 13, 2008

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fourth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 13, 2008, the following bill was signed into law:

SB2245 SD1 HD2 CD1

A BILL FOR AN ACT RELATING TO UNATTENDED  
CHILDREN IN MOTOR VEHICLES.  
(ACT 170)

Sincerely,

  
LINDA LINGLE

Approved by the Governor

on JUN 13 2008

THE SENATE  
TWENTY-FOURTH LEGISLATURE, 2008  
STATE OF HAWAII

**ACT 170**  
**S.B. NO.** 2245  
S.D. 1  
H.D. 2  
C.D. 1

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## A BILL FOR AN ACT

RELATING TO UNATTENDED CHILDREN IN MOTOR VEHICLES.

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

1           SECTION 1. The legislature finds that leaving a child  
2 unattended in a car can too often have tragic consequences,  
3 either because the child suffers from exposure to excessive  
4 heat, is injured when the car is stolen, or releases the  
5 emergency brake, inadvertently starts the car, or puts the car  
6 in gear. On average, thirty-six children per year across the  
7 country die in hot vehicles. About forty per cent of those  
8 deaths occur when caregivers forget that children are in the  
9 car. About twenty per cent of children who die are  
10 intentionally left in vehicles by caregivers who do not know any  
11 better.

12           The legislature notes that with an outside temperature of  
13 approximately eighty-five degrees, the inside air temperature in  
14 a car will reach one hundred-thirty degrees or more. Under  
15 those conditions, a small child, whose body temperature  
16 increases three to five times faster than an adult's, can  
17 succumb to the heat in as short a time as fifteen minutes.  
18 External temperatures as low as sixty-six degrees can be fatal.



1 As a result, the five-minute trip to the bank that ends up  
2 taking a half-hour can be deadly.

3 The legislature further finds that Hawaii is not immune to  
4 this problem. Four times within seven months in 2005, children  
5 were left in cars that were stolen. Since 2003, three children  
6 have died from heat stroke after being left unattended in a car  
7 by a parent or caregiver. Parents and caregivers know it is not  
8 safe to leave children home alone and unattended, but they  
9 continue to leave children unattended in a car even though it is  
10 just as dangerous, or more so. Accordingly, the legislature  
11 declares that it is the policy of the State that children should  
12 never be left unattended in vehicles under any circumstances.  
13 Stronger laws would also give law enforcement a preventive tool  
14 with which to work, similar to the effect of seat belt and child  
15 safety seat laws.

16 The legislature also finds that under current law, a police  
17 officer has only two choices when confronted with children left  
18 unattended in a car: either try to educate the parent or  
19 caregiver with a stern lecture or call child protective services  
20 and initiate a case for child endangerment. Since there is no  
21 law prohibiting this conduct, the first option provides little  
22 leverage to change it. The second option may be too draconian



1 under the particular circumstances at hand. While current law  
2 permits institution of criminal charges in egregious  
3 circumstances, a sanction that is less severe is appropriate to  
4 deter this conduct when the circumstances do not warrant a  
5 criminal prosecution. State law already takes a similar  
6 approach to speeding, for example. Police officers are  
7 authorized to issue citations for speeding if the circumstances  
8 do not warrant, for example, arresting the driver for reckless  
9 driving. It simply makes no sense to say that we should not,  
10 for example, issue speeding tickets because the driver can  
11 always be charged with negligent homicide or manslaughter if  
12 someone happens to be killed by the speeding driver.

13 It is the purpose of this Act to protect the children of  
14 Hawaii by prohibiting operators and adult passengers of motor  
15 vehicles from leaving the vehicle with an unattended child  
16 inside for five minutes or more. This Act makes such conduct a  
17 violation of the statewide traffic code, not a crime, for which  
18 a violator may only be fined. Together with requirements that  
19 the knowledge of the prohibition be tested on the driver's  
20 examination and that rental car companies provide notice of the  
21 prohibition to renters, this prohibition will provide one more  
22 tool with which the police may take concrete action to protect



1 Hawaii's children. Although Hawaii has criminal laws that can  
2 be used to sanction this behavior when injury or death results,  
3 it will be too late for the child in that case. Hawaii needs a  
4 way to deter this conduct when the child is not injured or  
5 killed, but before the ultimate tragedy strikes.

6 SECTION 2. Chapter 291C, Hawaii Revised Statutes, is  
7 amended by adding a new section to be appropriately designated  
8 and to read as follows:

9 **"§291C- Leaving a child unattended in a motor vehicle.**

10 (a) Notwithstanding chapter 571 or any other law to the  
11 contrary, a person violates this section if the person, being  
12 the operator or an adult passenger of a motor vehicle, leaves  
13 the motor vehicle for five minutes or longer when an unattended  
14 child is inside the vehicle, regardless of whether the operator  
15 or adult passenger is charged with the care or custody of the  
16 child.

17 (b) Any law enforcement officer, firefighter, or rescue  
18 team personnel who observes a child left unattended in a motor  
19 vehicle and determines that the unattended child is in physical  
20 danger, or poses a danger to others, may use whatever means are  
21 reasonably necessary to protect the child or others and remove  
22 the child from the motor vehicle. If the person who left the



1 motor vehicle with an unattended child inside cannot be located  
2 within a reasonable time, the law enforcement officer,  
3 firefighter, or rescue team personnel, upon removing the child  
4 from the motor vehicle, shall immediately report the matter to a  
5 police officer, as defined under section 587-2, who may assume  
6 protective custody of the child without a court order and  
7 without the consent of the child's family.

8 (c) Law enforcement officers, firefighters, and rescue  
9 team personnel shall not be liable in any civil action to any  
10 party for any act performed in good faith under this section.

11 (d) As used in this section:

12 "Child" means a person under the age of nine.

13 "Rescue team personnel" means physicians, basic life  
14 support personnel, advanced life support personnel, surgeons,  
15 nurses, volunteers, or employees of the owners or operators of a  
16 hospital or authorized emergency vehicle who have been trained  
17 in basic or advanced life support and have been charged by the  
18 owners or operators of the hospital or authorized emergency  
19 vehicle with providing life support and resuscitation to persons  
20 who are in immediate danger of loss of life in cases of  
21 emergency.

22 "Unattended" means leaving a child:



- 1        (1) Alone in a motor vehicle; or
- 2        (2) In a motor vehicle with a minor under the age of
- 3        twelve."

4        SECTION 3. Section 286-108, Hawaii Revised Statutes, is  
 5 amended by amending subsection (a) to read as follows:

6        "(a) Except as provided in section 286-107.5(a), the  
 7 examiner of drivers shall examine every applicant for a driver's  
 8 license, except as otherwise provided in this part. The  
 9 examination shall include a test of:

- 10        (1) The applicant's eyesight and any further physical
- 11        examination that the examiner of drivers finds
- 12        necessary to determine the applicant's fitness to
- 13        operate a motor vehicle safely upon the highways;
- 14        (2) The applicant's ability to understand highway signs
- 15        regulating, warning, and directing traffic;
- 16        (3) The applicant's knowledge of the rules of the road
- 17        based on the traffic laws of the State and the traffic
- 18        ordinances of the county where the applicant resides
- 19        or intends to operate a motor vehicle; provided that
- 20        the examination shall specifically test the
- 21        applicant's knowledge of the provisions of section
- 22        291C- ; and



1           (4) The actual demonstration of ability to exercise  
2                   ordinary and reasonable control in the operation of a  
3                   motor vehicle.

4 The examinations shall be appropriate to the operation of the  
5 category of motor vehicle for which the applicant seeks to be  
6 licensed and shall be conducted as required by the director.

7           The examiner of drivers shall require every applicant to  
8 comply with section 286-102.5.

9           The examiner of drivers may waive the actual demonstration  
10 of ability to operate a motorcycle or motor scooter for any  
11 person who furnishes evidence, to the satisfaction of the  
12 examiner of drivers, that the person has completed the  
13 motorcycle education course approved by the director in  
14 accordance with section 431:10G-104.

15           At the time of examination, an application for voter  
16 registration by mail shall be made available to every applicant  
17 for a driver's license.

18           For the purposes of this section, the term "applicant" does  
19 not include any person reactivating a license under section  
20 286-107.5(a)."



1 SECTION 4. Section 437D-13, Hawaii Revised Statutes, is  
2 amended amending its title and subsection (a) to read as  
3 follows:

4 "§437D-13 Notice and posting required concerning [~~seat~~  
5 ~~belt, child passenger restraint, and operating a vehicle under~~  
6 ~~the influence~~] motor vehicle laws. (a) Every lessor shall  
7 display at all times in a conspicuous place in each rental motor  
8 vehicle offered to the public, a decal, written in plain  
9 language and in no less than ten-point type, that informs the  
10 lessee of:

11 (1) Hawaii's seat belt and child passenger restraint laws  
12 and the prohibition against operating a vehicle under  
13 the influence of an intoxicant[+] and leaving a child  
14 unattended in a motor vehicle; and

15 (2) The existence and location of additional information  
16 concerning the laws relating to seat belts, child  
17 passenger restraints, [~~and~~] operating a vehicle under  
18 the influence of an intoxicant[-], and leaving a child  
19 unattended in a motor vehicle.

20 The requirements and penalties of Hawaii's seat belt laws and  
21 child passenger restraint laws, as provided in sections 291-11.5  
22 and 291-11.6, and the prohibition against and penalties for



1 operating a vehicle under the influence of an intoxicant, as  
2 provided in section 291E-61, and leaving a child unattended in a  
3 motor vehicle, as provided in section 291C- , shall be printed  
4 on a card which shall be placed in the glove compartment of  
5 every rental motor vehicle offered to the public."

6 SECTION 5. This Act does not affect rights and duties that  
7 matured, penalties that were incurred, and proceedings that were  
8 begun, before its effective date.

9 SECTION 6. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 7. This Act shall take effect upon its approval;  
12 provided that sections 3 and 4 shall take effect on October 1,  
13 2008; and further provided that the amendments made to section  
14 286-108, Hawaii Revised Statutes, shall not be repealed when  
15 that section is repealed and reenacted on January 9, 2011, by  
16 Act 72, Session Laws of Hawaii 2005.

APPROVED this 13 day of JUN , 2008



GOVERNOR OF THE STATE OF HAWAII



