
A BILL FOR AN ACT

RELATING TO TRAFFIC INFRACTIONS.

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

1 SECTION 1. Chapter 291D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:
4 "§291D- U-drive vehicles; traffic infractions.
5 Notwithstanding any other law to the contrary, if the registered
6 owner of record is the lessor of a rental or U-drive motor
7 vehicle, as defined in section 286-2 pursuant to a written lease
8 agreement, the lessee at the time of the issuance of the traffic
9 infraction shall be responsible for such summons or citation;
10 provided, however, that said lessor shall be responsible for
11 such summons or citation if the lessor does not provide the
12 court having jurisdiction over the summons or citation the name
13 and address of the lessee within forty-five days after a notice
14 containing the date, time, and location of the violation and the
15 license number of the vehicle; provided further that the
16 administrative judge of the court having jurisdiction over the
17 citation or summons may waive the requirement of providing the

1 name and address of the lessee by the lessor and impose an
2 administrative fee of five dollars per citation on the lessor."

3 SECTION 2. Section 291D-2, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By adding three new definitions to be appropriately
6 inserted and to read:

7 "Concurrent trial" means a trial proceeding held in the
8 district or family court in which the defendant shall be tried
9 simultaneously in a civil case for any charged traffic
10 infraction and in a criminal case for any related criminal
11 offense, said trials to be held in one court on the same date
12 and at the same time.

13 "Notice of traffic infraction" includes a notice of parking
14 infraction.

15 "Related criminal offense" means any criminal violation or
16 crime, committed in the same course of conduct as a traffic
17 infraction, for which the defendant is arrested or charged."

18 2. By amending the definitions of "hearing", "traffic
19 infraction", and "trial" to read:

20 "Hearing" means a proceeding conducted by the district
21 court pursuant to section 291D-8 at which [~~a driver either~~] the
22 person to whom a notice of traffic infraction was issued either



1 admits to the traffic infraction, contests the notice of traffic
2 infraction, or admits to the traffic infraction but offers an
3 explanation to mitigate the monetary assessment imposed.

4 "Traffic infraction" means all violations of statutes,
5 ordinances, or rules relating to traffic movement and control,
6 including parking, standing, equipment, and pedestrian offenses,
7 for which the prescribed penalties do not include
8 imprisonment[-] and which are not otherwise specifically
9 excluded from coverage of this chapter.

10 "Trial" means a trial conducted by the district court
11 pursuant to the [~~Hawaii Rules of Penal Procedure and~~] rules of
12 the district court[-] and the Hawaii rules of evidence."

13 SECTION 3. Section 291D-3, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§291D-3 Applicability.** (a) Notwithstanding any other
16 provision of law to the contrary, all traffic infractions,
17 including traffic infractions committed by minors, shall be
18 adjudicated pursuant to this chapter, except as provided in
19 subsection (b). This chapter shall be applied uniformly
20 throughout the State and in all counties. No penal sanction
21 that includes imprisonment shall apply to a violation of a state
22 statute or rule, or county ordinance or rule, that would



1 constitute a traffic infraction under this chapter. No traffic
2 infraction shall be classified as a criminal offense.

3 (b) [~~No traffic infraction that involves an accident~~
4 ~~resulting in personal injury or property damage~~] Where a
5 defendant is charged with a traffic infraction and the
6 infraction is committed in the same course of conduct as a
7 criminal offense for which the offender is arrested or charged,
8 the traffic infraction shall be adjudicated pursuant to this
9 chapter[, but shall be adjudicated by]; provided that the court
10 may schedule any initial appearance, hearing, or trial on the
11 traffic infraction at the same date, time, and place as the
12 arraignment, hearing, or trial on the related criminal offense.

13 Notwithstanding this subsection and subsection (c), the
14 court shall not schedule any initial appearance, hearing, or
15 trial on the traffic infraction at the same date, time, and
16 place as the arraignment, hearing, or trial on the related
17 criminal offense where the related criminal offense is a felony
18 or is a misdemeanor for which the defendant has demanded a jury
19 trial.

20 (c) If the defendant requests a trial pursuant to section
21 291D-13, the trial shall be held in the [appropriate] district
22 [or circuit] court of the circuit in which the traffic



1 infraction was committed[, ~~whichever has jurisdiction pursuant~~
2 ~~to the applicable statute or rules of court~~]. If the court
3 schedules a concurrent trial pursuant to paragraph (1), the
4 concurrent trial shall be held in the appropriate district or
5 family court of the circuit in which the traffic infraction was
6 committed, whichever has jurisdiction over the related criminal
7 offense charged pursuant to the applicable statute or rule of
8 court; provided that:

9 (1) The district or family court, for the purpose of
10 trial, may schedule a civil trial on the traffic
11 infraction on the same date and at the same time as a
12 criminal trial on the related criminal offense
13 charged. The court shall enter a civil judgment as to
14 the traffic infraction and a judgment of conviction or
15 acquittal as to the related criminal offense following
16 such concurrent trial; and

17 (2) If trial on the traffic infraction is held separately
18 from and prior to trial on any related criminal
19 offense, the following shall be inadmissible in the
20 prosecution or trial of the related criminal offense,
21 except as expressly provided by the Hawaii rules of
22 evidence:



1 (A) Any written or oral statement made by the
2 defendant in proceedings conducted pursuant to
3 section 291D-7(b); and

4 (B) Any testimony given by the defendant in the trial
5 on the traffic infraction.

6 Such statements or testimony shall not be deemed a
7 waiver of the defendant's privilege against self-
8 incrimination in connection with any related criminal
9 offense.

10 (d) In no event shall section 701-109 preclude prosecution
11 for a related criminal offense where a traffic infraction
12 committed in the same course of conduct has been adjudicated
13 pursuant to this chapter.

14 ~~[(e)]~~ (e) If the defendant fails to appear ~~[for a traffic~~
15 ~~infraction which is committed in the same course of conduct as a~~
16 ~~criminal offense for which the offender is arrested or charged,]~~
17 at any scheduled court date prior to the date of trial or
18 concurrent trial:

19 (1) And the defendant's civil liability for the traffic
20 infraction has not yet been adjudicated pursuant to
21 section 291D-8, the court shall enter a judgment by
22 default in favor of the State for the traffic



1 infraction unless the court determines that good cause
2 or excusable neglect exists for the defendant's
3 failure to appear[~~—The~~]; or

4 (2) And the defendant's civil liability for the traffic
5 infraction has been adjudicated previously pursuant to
6 section 291D-8, the judgment earlier entered in favor
7 of the State shall stand unless the court determines
8 that good cause or excusable neglect exists for the
9 defendant's failure to appear.

10 (f) If the defendant fails to appear at any scheduled
11 court date prior to concurrent trial or fails to appear for
12 concurrent trial scheduled pursuant to subsection (c)(1), the
13 court shall enter a disposition pursuant to the Hawaii rules of
14 penal procedure for the criminal offense."

15 SECTION 4. Section 291D-5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§291D-5 Notice of traffic infraction; form; determination**
18 **final unless contested.** (a) The notice of traffic infraction

19 for moving violations shall include the [~~complaint and~~] summons
20 for the purposes of this chapter. Whenever a notice of traffic
21 infraction is issued to the driver of a motor vehicle, the
22 driver's signature, driver's license number, and current address

1 shall be [~~affixed to~~] noted on the notice. If the driver
2 refuses to sign the notice[~~7~~] of traffic infraction, the officer
3 shall record this refusal on the notice and issue the notice to
4 the driver. Individuals to whom a notice of traffic infraction
5 is issued under this chapter need not be arraigned before the
6 court, unless required by rule of the supreme court.

7 (b) The form for the notice of traffic infraction shall be
8 prescribed by rules of the district court which shall be uniform
9 throughout the State[~~. Except in the case of traffic~~
10 ~~infractions involving parking, the~~]; provided that each judicial
11 circuit may include differing statutory, rule, or ordinance
12 provisions on its respective notice of traffic infraction.

13 (c) A notice of traffic infraction that is generated by
14 the use of electronic equipment or that bears the electronically
15 stored image of any person's signature, or both, shall be valid
16 under this chapter.

17 (d) The notice of traffic infraction shall include the
18 following:

19 (1) A statement of the specific traffic infraction[~~7~~
20 ~~including a brief statement of facts,~~] for which the
21 notice was issued;



- 1 (2) Except in the case of parking-related traffic
2 infractions, a brief statement of the facts;
- 3 [~~+2~~] (3) A statement of the total amount to be paid for
4 each traffic infraction, which amount shall include
5 any fee, surcharge, or cost required by statute,
6 ordinance, or rule, and any monetary assessment,
7 established for the particular traffic infraction
8 pursuant to section 291D-9, to be paid by the
9 driver~~[7]~~ or registered owner of the vehicle, which
10 shall be uniform throughout the State;
- 11 [~~+3~~] (4) A statement of the options provided in section
12 291D-6(b) for answering the notice and the procedures
13 necessary to exercise the options;
- 14 [~~+4~~] (5) A statement that the person to whom the notice is
15 issued must answer, choosing one of the options
16 specified in section 291D-6(b), within twenty-one
17 days~~[7]~~ of issuance of the notice;
- 18 [~~+5~~] (6) A statement that failure to answer the notice of
19 traffic infraction within twenty-one days of issuance
20 shall result in the entry of judgment by default for
21 the State and may result in the assessment of a late
22 penalty, and, that if the ~~[driver]~~ person to whom the



1 notice was issued fails to pay the total amount
2 specified in the default judgment within an additional
3 thirty days or to otherwise take action to set aside
4 the default, notice shall be sent to the director of
5 finance of the appropriate county [~~that~~]:

6 (A) That the person to whom the notice of infraction
7 not involving parking was issued shall not be
8 permitted to renew or obtain a driver's license;
9 or [~~7, where~~]

10 (B) Where the notice was issued to a motor vehicle,
11 that the registered owner shall not be permitted
12 to register, renew the registration of, or
13 transfer title to the motor vehicle until the
14 traffic infraction is finally disposed of
15 pursuant to this chapter [~~7~~], except as provided
16 in section 291D-10(b);

17 [~~(6)~~] (7) A statement that, at a hearing requested to
18 contest the notice of traffic infraction conducted
19 pursuant to section 291D-8 [~~or in consideration of a~~
20 ~~written statement contesting the notice of traffic~~
21 ~~infraction~~], no officer shall be present unless the
22 driver timely requests the court to have the officer



1 present [~~The~~], and that the standard of proof to be
2 applied by the court is whether a preponderance of the
3 evidence proves that the specified traffic infraction
4 was committed;

5 [+7)] (8) A statement that, at a hearing requested for the
6 purpose of explaining mitigating circumstances
7 surrounding the commission of the infraction or in
8 consideration of a written request for mitigation, the
9 person shall be considered to have committed the
10 traffic infraction;

11 [+8)] (9) A space in which the [~~driver's~~] signature [~~r~~
12 ~~current address, and driver's license number~~] of the
13 person to whom the notice was issued may be affixed;
14 and

15 [+9)] (10) The date, time, and place at which the [~~driver~~]
16 person to whom the notice was issued must appear in
17 court, if the [~~driver~~] person is required by the
18 notice to [~~go to~~] appear in person at the hearing.

19 [+e)] (e) In the case of traffic infractions involving
20 parking [~~r~~] or equipment, where the motor vehicle is found parked
21 or stopped without a driver, the notice shall be affixed
22 conspicuously to the vehicle as provided in section 291C-167 and



1 shall include the information required by paragraphs (1) and (3)
2 to [~~(8)~~] (9) of subsection [~~(b)~~] (d)."

3 SECTION 5. Section 291D-6, Hawaii Revised Statutes, is
4 amended by amending subsections (a) and (b) to read as follows:

5 "(a) A person who receives a notice of traffic infraction
6 shall answer the notice within twenty-one days of the date of
7 issuance of the notice. There shall be included with the notice
8 of traffic infraction a preaddressed envelope directed to the
9 traffic violations bureau of the applicable district court.

10 (b) [~~I~~] Provided that the notice of traffic infraction
11 does not require an appearance in person at hearing as set forth
12 in section 291D-5(b)(10), in answering a notice of traffic
13 infraction, a person shall have the following options:

14 (1) Admit the commission of the infraction in one of the
15 following ways:

16 (A) By mail or in person, by completing the
17 appropriate portion of the notice of traffic
18 infraction or preaddressed envelope and
19 submitting it to the authority specified on the
20 notice together with payment of the total amount
21 stated on the notice of traffic infraction.

22 Payment by mail shall be in the form of a check,



1 money order, or by an approved credit or debit
2 card. Payment in person shall be in the form of
3 United States currency, check, money order, or by
4 an approved credit or debit card; or

5 (B) Via the Internet or by telephone, by submitting
6 payment of the total amount stated on the notice
7 of traffic infraction. Payment via the Internet
8 or by telephone shall be by an approved credit or
9 debit card;

10 (2) Deny the commission of the infraction and request a
11 hearing to contest the infraction by completing the
12 appropriate portion of the notice of traffic
13 infraction or preaddressed envelope and submitting it,
14 either by mail or in person, to the authority
15 specified on the notice. In lieu of appearing in
16 person at a hearing, the person may submit a written
17 statement of grounds on which the person contests the
18 notice of traffic infraction, which shall be
19 considered by the court as a statement given in court
20 pursuant to section 291D-8(a); or

21 (3) Admit the commission of the infraction and request a
22 hearing to explain circumstances mitigating the



1 infraction by completing the appropriate portion of
2 the notice of traffic infraction or preaddressed
3 envelope and submitting it, either by mail or in
4 person, to the authority specified on the notice. In
5 lieu of appearing in person at a hearing, the person
6 may submit a written explanation of the mitigating
7 circumstances, which shall be considered by the court
8 as a statement given in court pursuant to section
9 291D-8(b)."

10 SECTION 6. Section 291D-7, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§291D-7 Court action after answer or failure to answer.**

13 (a) When an admitting answer is received, the court [~~shall~~
14 ~~review the driver's abstract. The court~~] shall enter judgment
15 in favor of the State in the total amount specified in the
16 notice of traffic infraction. If the total amount is not
17 submitted with the answer, the court [~~shall~~] may take action as
18 provided in section 291D-10.

19 (b) When a denying answer is received, the court shall
20 proceed as follows:

21 (1) In the case of a traffic infraction [~~that does not~~
22 ~~involve parking~~] where the person requests a hearing



1 at which the person will appear in person to contest
2 the infraction, the court shall notify the person in
3 writing of the date, time, and place of hearing to
4 contest the notice of traffic infraction. The notice
5 of hearing shall be ~~[sent]~~ mailed to the address
6 stated in the denying answer, or if none is given, to
7 the address stated on the notice of traffic
8 infraction. The notification also shall advise the
9 person that, if the person fails to appear at the
10 hearing, the court shall enter judgment by default in
11 favor of the State, as of the date of the scheduled
12 hearing, that the total amount specified in the
13 default judgment must be paid within thirty days ~~[from~~
14 ~~notice]~~ entry of default~~[r]~~ judgment, and, if it is
15 not paid, that the court shall take action as provided
16 in section 291D-10;

17 ~~[-(2) In the case of a traffic infraction that involves~~
18 ~~parking, the court shall notify the person or~~
19 ~~registered owner or owners in writing of the date,~~
20 ~~time, and place of hearing to contest the notice of~~
21 ~~traffic infraction. The notice of hearing shall be~~
22 ~~sent to the address stated in the denying answer or,~~



1 ~~if none is given, to the address at which the vehicle~~
2 ~~is registered. The notification also shall advise the~~
3 ~~person that, if the person fails to appear at the~~
4 ~~hearing, the court shall enter judgment by default in~~
5 ~~favor of the State, as of the date of the scheduled~~
6 ~~hearing, that the total amount specified in the~~
7 ~~default judgment shall be paid within thirty days from~~
8 ~~notice of default, and, if it is not paid, that the~~
9 ~~court shall take action as provided in section 291D-~~
10 ~~10.] and~~

11 ~~[(3)]~~ (2) When a denying answer is accompanied by a written
12 statement of the grounds on which the person contests
13 the notice of ~~the~~ traffic infraction, the court
14 shall proceed as provided in section 291D-8(a) and
15 shall notify the person of its decision, including the
16 total amount assessed, if any, by mailing ~~it~~ the
17 notice of entry of judgment within ~~thirty~~ forty-five
18 days of the postmarked date of the answer to the
19 address provided by the person in the denying answer,
20 or if none is given, to the address given when the
21 notice of traffic infraction was issued or, in the
22 case of parking violations, ~~[to the address stated in~~



1 ~~the denying answer or, if none is given,~~ to the
2 address at which the vehicle is registered. The
3 ~~[decision]~~ notice of entry of judgment also shall
4 advise the person, if it is determined that the
5 infraction was committed~~[7]~~ and judgment is entered in
6 favor of the State, that the person has the right,
7 within thirty days~~[7]~~ of entry of judgment, to request
8 a trial and shall specify the procedures for doing so.
9 The notice of ~~[decision]~~ entry of judgment shall also
10 notify the person, if an amount is assessed by the
11 court for ~~[fines7]~~ monetary assessments, fees,
12 surcharges, or costs, ~~[or monetary assessments7]~~ that
13 if the person does not request a trial~~[7]~~ within the
14 time specified in this paragraph, the total amount
15 assessed shall be paid within thirty days~~[7]~~ of entry
16 of judgment. The notice of entry of judgment shall
17 ~~[warn]~~ inform the person that if the total amount is
18 not paid within thirty days, the court shall take
19 action as provided in section 291D-10.

20 (c) When an answer admitting commission of the infraction
21 but seeking to explain mitigating circumstances is received, the
22 court shall proceed as follows:



1 (1) In the case of a traffic infraction [~~which does not~~
2 ~~involve parking~~] where the person requests a hearing
3 at which the person will appear in person to explain
4 mitigating circumstances, the court shall notify the
5 person in writing of the date, time, and place of
6 hearing to explain mitigating circumstances. The
7 notice of hearing shall be [~~sent~~] mailed to the
8 address stated in the answer, or if none is given, to
9 the address stated on the notice of traffic
10 infraction. The notification also shall advise the
11 person that, if the person fails to appear at the
12 hearing, the court shall enter judgment by default in
13 favor of the State, as of the date of the scheduled
14 hearing, that the total amount stated in the default
15 judgment [~~shall~~] must be paid within thirty days [~~from~~
16 ~~notice~~] of entry of default[~~7~~] judgment, and, if it is
17 not paid, that the court shall take action as provided
18 in section 291D-10;

19 [~~(2) In the case of a traffic infraction which involves~~
20 ~~parking, the court shall notify the person in writing~~
21 ~~of the date, time, and place of the hearing. The~~
22 ~~notice shall be sent to the address at which the~~



1 ~~vehicle is registered. The notice of hearing on~~
 2 ~~mitigating circumstances shall advise the person that~~
 3 ~~the court shall enter judgment for the State and the~~
 4 ~~hearing shall be limited to an explanation of the~~
 5 ~~mitigating circumstances. The notice of hearing also~~
 6 ~~shall state that if the person fails to appear at the~~
 7 ~~hearing, the total amount specified in the default~~
 8 ~~judgment shall be paid within thirty days of the~~
 9 ~~scheduled hearing. The notice of hearing shall warn~~
 10 ~~the person that if the total amount is not paid within~~
 11 ~~thirty days, the court shall take action as provided~~
 12 ~~in section 291D-10,] and~~

13 [~~3~~] (2) If a written explanation is included with an
 14 answer admitting commission of the infraction, the
 15 court shall enter judgment for the State and, after
 16 reviewing the explanation, determine the total amount
 17 of the [~~finer,~~] monetary assessments, fees,
 18 surcharges, or costs [~~, or monetary assessments~~] to be
 19 assessed, if any. The court shall then notify the
 20 person of the total amount to be paid for the
 21 infraction, if any. There shall be no appeal from the
 22 [~~order.~~] judgment. If the court assesses an amount



1 for [~~finer,~~] monetary assessments, fees, surcharges,
2 or costs, [~~or monetary assessments,~~] the court shall
3 also notify the person that the total amount shall be
4 paid within thirty days of [~~the postmarked date of the~~
5 ~~decision.~~] entry of judgment. The notice of entry of
6 judgment also shall [~~warn~~] inform the person that if
7 the total amount is not paid within thirty days, the
8 court shall take action as provided in section
9 291D-10.

10 (d) If the person fails to answer within twenty-one days
11 of issuance of the notice of traffic infraction, the court shall
12 take action as provided in subsection (e).

13 (e) Whenever judgment by default in favor of the State is
14 entered, the court shall mail a notice of entry of default
15 judgment [~~of default~~] to the address provided by the person when
16 the notice of traffic infraction was issued or, in the case of
17 parking [~~violations,~~] infractions, to the address stated in the
18 answer, if any, or the address at which the vehicle is
19 registered. The notice of entry of default judgment shall
20 advise the person that the total amount specified in the default
21 judgment shall be paid within thirty days of entry of default
22 judgment and shall explain the procedure for setting aside a



1 default judgment. The notice of entry of default judgment shall
2 also [~~warn~~] inform the person that if the total amount is not
3 paid within thirty days, the court shall take action as provided
4 in section 291D-10. Judgment by default for the State entered
5 pursuant to this chapter may be set aside pending final
6 disposition of the traffic infraction upon written application
7 of the person and posting of an appearance bond equal to the
8 amount of the total amount specified in the default judgment and
9 any other assessment imposed pursuant to section 291D-9. The
10 application shall show good cause or excusable neglect for the
11 person's failure to take action necessary to prevent entry of
12 judgment by default. Upon receipt of the application[~~r~~] and
13 required appearance bond, the court shall take action to remove
14 the restriction placed on the person's driver's license or the
15 motor vehicle's registration and title imposed pursuant to
16 section 291D-10. Thereafter, the court shall determine whether
17 good cause or excusable neglect exists for the person's failure
18 to take action necessary to prevent entry of judgment by
19 default. If so, the application to set aside default judgment
20 shall be granted, the default judgment shall be set aside, and
21 the notice of traffic infraction shall be disposed of pursuant
22 to this chapter. If not, the application to set aside default



1 judgment shall be denied, the appearance bond shall be forfeited
2 and applied to satisfy amounts due under the default judgment,
3 and the notice of traffic infraction shall be finally disposed.
4 In either case, the court [~~within thirty days,~~] shall determine
5 the existence of good cause or excusable neglect and notify the
6 person of its decision on the application in writing."

7 SECTION 7. Section 291D-8, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§291D-8 Hearings.** (a) In proceedings to contest [~~the~~
10 ~~issuance of~~] a notice of traffic [~~infractions:~~] infraction where
11 the person to whom the notice was issued has timely requested a
12 hearing and appears at such hearing:

13 (1) In lieu of the personal appearance by the officer who
14 issued the notice of traffic infraction, the court
15 shall consider the notice of traffic infraction and
16 any other written report made by the officer, if
17 provided to the court by the officer, together with
18 any oral or written statement by the [~~driver,~~] person
19 to whom the notice of infraction was issued, or in the
20 case of traffic infractions involving parking[~~er~~] or
21 equipment, the operator or registered owner of the
22 motor vehicle;



1 (2) The court may compel by subpoena the attendance of the
2 officer who issued the notice of traffic infraction
3 and other witnesses from whom it may wish to hear;

4 (3) The standard of proof to be applied by the court shall
5 be whether, by a preponderance of the evidence [~~proves~~
6 ~~that~~], the court finds that the traffic infraction was
7 committed; and

8 (4) After due consideration of the evidence and arguments,
9 if any, the court shall determine whether commission
10 of the traffic infraction has been established. Where
11 the commission of the traffic infraction has not been
12 established, [~~an order~~] judgment in favor of the
13 defendant, dismissing the notice of traffic infraction
14 or any count therein with prejudice, shall be entered
15 in the [~~records~~] record. Where it has been
16 established that the traffic infraction was committed,
17 the court shall enter judgment [~~for~~] in favor of the
18 State and [~~may~~] shall assess a monetary assessment
19 pursuant to section 291D-9[~~-~~], together with any fees,
20 surcharges, or costs. The court also shall inform the
21 person of the right to request [~~, within thirty days,~~]
22 a trial pursuant to section 291D-13. If the person



1 requests a trial at the time of the hearing, the court
2 shall provide the person with the trial date
3 [~~forthwith. If trial is elected, arraignment and plea~~
4 ~~shall be held at the time of trial.~~] as soon as
5 practicable.

6 (b) In proceedings to explain mitigating circumstances[+] where the person to whom the notice of traffic infraction was
7 issued has timely requested a hearing and appears at such
8 hearing:

10 (1) The procedure [~~shall be informal and~~] shall be limited
11 to the issue of mitigating circumstances. A person
12 who requests to explain the circumstances shall not be
13 permitted to contest [~~the issuance of~~] the notice of
14 traffic infraction; [~~and~~]

15 (2) After the court has received the explanation, the
16 court shall enter judgment [~~for~~] in favor of the State
17 and may assess a monetary assessment[+] pursuant to
18 section 291D-9[+] and, together with any fees,
19 surcharges, or costs;

20 (3) The court, after receiving the explanation, may vacate
21 the admission and [~~dismiss~~] enter judgment in favor of
22 the defendant, dismissing the notice of traffic



1 infraction or any count therein with prejudice, where
2 the explanation establishes that the infraction was
3 not committed; and

4 (4) There shall be no appeal from the [~~order.~~] judgment.

5 (c) If a person for whom a hearing has been scheduled, to
6 contest the notice of traffic infraction or [~~a hearing~~] to
7 explain mitigating circumstances, fails to appear at the
8 hearing, the court shall enter judgment by default for the State
9 and take action as provided in section 291D-7(e). If the total
10 amount of the monetary assessment, fees, surcharges, or costs is
11 not paid within thirty days[~~7~~] of entry of default judgment, the
12 court shall take action as provided in section 291D-10."

13 SECTION 8. Section 291D-12, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§291D-12 Powers of the district court judge sitting in**
16 **the traffic division.** A district court judge sitting in the
17 traffic division and hearing cases pursuant to this chapter
18 shall have all the powers of a district court judge under
19 chapter 604, including the following powers:

20 (1) To conduct traffic infraction hearings and to impose
21 monetary assessments;



- 1 (2) To permit deferral of monetary assessment or impose
2 community service in lieu thereof;
- 3 (3) To dismiss a notice of traffic infraction, with or
4 without prejudice, or to set aside a judgment for the
5 State;
- 6 (4) To order temporary driver's license suspension or
7 driver's license reinstatement;
- 8 (5) To order the director of finance not to issue or renew
9 the driver's license, or to register, renew the
10 registration of, or issue title to a motor vehicle, of
11 any person who has not paid a monetary assessment
12 ~~[or]~~, has not performed community service in lieu
13 thereof[+], or has not otherwise satisfied a judgment
14 for the State entered pursuant to this chapter;
- 15 (6) To approve the issuance or renewal of a driver's
16 license or instruction permit pursuant to section
17 286-109(c);
- 18 (7) To issue penal summonses and bench warrants and
19 initiate contempt of court proceedings in proceedings
20 conducted pursuant to section 291D-13; ~~[and]~~

1 (8) To issue penal summonses and bench warrants and
2 initiate failure to appear proceedings in proceedings
3 conducted pursuant to section 291D-5(d)(10); and
4 [~~8~~] (9) To exercise other powers the court finds
5 necessary and appropriate to carry out the purposes of
6 this chapter."

7 SECTION 9. Section 291D-13, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§291D-13 Trial~~[-]~~ and concurrent trial.** (a) There shall
10 be no right to trial unless the defendant contests the notice of
11 traffic infraction pursuant to section 291D-8. If, after
12 proceedings to contest the notice of traffic infraction, a
13 determination is made that [~~a person~~] the defendant committed
14 the traffic infraction, [~~the person~~] judgment shall enter in
15 favor of the State. The defendant may request [~~, within thirty~~
16 ~~days of the determination,~~] a trial pursuant to the [~~rules of~~
17 ~~penal procedure~~] Hawaii rules of evidence and the rules of the
18 district court [~~, provided that arraignment and plea for such~~
19 ~~trial shall be held at the time of trial.~~]; provided that any
20 request for trial shall be made within thirty days of entry of
21 judgment. If, after appearing in person at a hearing to contest
22 the notice of traffic infraction, the person requests a trial at



1 the conclusion of the [~~proceedings to contest the notice of~~
2 ~~traffic infraction,~~] hearing, the court shall provide the person
3 with the trial date [~~forthwith. A notice of traffic infraction~~
4 ~~shall not be adjudicated pursuant to this section until~~
5 ~~proceedings pursuant to section 291D-8 have been completed.] as
6 soon as practicable.~~

7 (b) [~~The result of the final determination or any~~
8 ~~admission made pursuant to section 291D-6 shall not be~~
9 ~~admissible in any trial conducted pursuant to section 291D-13.]
10 At the time of trial, the State shall be represented by a
11 prosecuting attorney of the county in which the infraction
12 occurred. The prosecuting attorney shall orally recite the
13 charged civil traffic infraction in court prior to commencement
14 of the trial. Proof of the defendant's commission of the
15 traffic infraction shall be by a preponderance of the evidence.~~

16 (c) If trial on the traffic infraction is held prior to
17 trial on any related criminal offense, the following shall be
18 inadmissible in the subsequent prosecution or trial of the
19 related criminal offense:

20 (1) Any written or oral statement made by the defendant in
21 proceedings conducted pursuant to section 291D-7(b);
22 and



1 (2) Any testimony given by the defendant in the traffic
2 infraction trial.

3 Such statement or testimony, or both, shall not be deemed a
4 waiver of the defendant's privilege against self-incrimination
5 in connection with any related criminal offense.

6 (d) In any concurrent trial, the State shall be
7 represented by a prosecuting attorney of the county in which the
8 infraction and related crime occurred. Proof of the defendant's
9 commission of the infraction shall be by a preponderance of the
10 evidence, and proof of the related criminal offense shall be by
11 proof beyond a reasonable doubt. Concurrent trial shall be
12 conducted pursuant to the rules of the appropriate court, the
13 Hawaii rules of evidence, and the Hawaii rules of penal
14 procedure."

15 SECTION 10. Section 291D-14, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~+~~§291D-14~~+~~ **Rules.** (a) The supreme court may adopt
18 rules of procedure for the conduct of all proceedings pursuant
19 to this chapter.

20 (b) Chapter 626 shall not apply in proceedings conducted
21 pursuant to this chapter, except for the rules governing



1 privileged communications, and proceedings conducted under
2 section 291D-13.

3 (c) Notwithstanding section 604-17, while the court is
4 sitting in any matter pursuant to this chapter, the court shall
5 not be required to preserve the testimony or proceedings, except
6 proceedings conducted pursuant to section 291D-13[-] and
7 proceedings in which the traffic infraction is heard on the same
8 date and time as any related criminal offense.

9 (d) The prosecuting attorney shall not participate in
10 traffic infraction proceedings conducted pursuant to this
11 chapter, except proceedings pursuant to section 291D-13[-] and
12 proceedings in which a related criminal offense is scheduled for
13 arraignment, hearing, or concurrent trial.

14 (e) Chapter 91 shall not apply in proceedings before the
15 court.

16 (f) Except as otherwise provided in section 291D-3(b) and
17 291D-3(c), chapter 571 and the Hawaii family court rules shall
18 not apply in any proceedings conducted pursuant to this
19 chapter."

20 SECTION 11. Section 437D-17.5, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "[+]§437D-17.5[+] **Rental agreements; unpaid parking**
2 **citations.** Pursuant to section 291C-168.5[7] and 291D- ,
3 the lessor, as the registered owner of the rental motor vehicle,
4 may be responsible for fines or fees related to parking
5 citations and traffic infractions. The lessor may adopt a
6 policy of charging the lessee the actual cost of the parking
7 citation and traffic infraction paid to the court plus an
8 administrative fee not to exceed [~~\$20~~] four hours of work
9 multiplied by Hawaii's prevailing minimum wage relating to
10 research of files and communications with the court and lessee;
11 provided, however, that every rental agreement of a lessor
12 adopting the policy must disclose, at a minimum, in plain
13 language and in at least ten-point bold typeface print:

14 (1) The maximum amount of the administrative fee to be
15 charged; and

16 (2) Language encouraging the lessee to pay the parking
17 citation or traffic infraction directly."

18 SECTION 12. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 13. This Act shall take effect on January 1, 2008.



Report Title:

Traffic Infractions; Concurrent Trial; Citation Form

Description:

Expands scope of traffic infractions law to include infractions committed by minors. Permits concurrent trials and clarifies requirements. Clarifies citation form requirements. Authorizes use of electronic citations. Clarifies that lessee of a U-Drive vehicle is responsible for traffic citations. (HB1215 HD1)

