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## A BILL FOR AN ACT

RELATING TO TRAFFIC INFRACTIONS.

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

1           SECTION 1. The legislature finds that Hawaii once had a  
2 driver's license point system that assessed drivers a set number  
3 of points for each traffic violation committed by the driver.  
4 This system required suspension or revocation of a driver's  
5 license upon accumulation of a certain number of points within a  
6 specified period of time. However, the driver's license point  
7 system was repealed in 1997 as part of the effort to streamline  
8 disposition of traffic cases and minimize the time needed for  
9 drivers and the courts to resolve what, taken in isolation, are  
10 relatively minor offenses. As a result, some drivers who could  
11 have had their licenses suspended or revoked by action of either  
12 the courts or the county examiner of licenses have been allowed  
13 to continue driving, sometimes with disastrous consequences.

14           The legislature finds that, for example, on June 20, 2007,  
15 a driver with ten traffic infractions since 2001, including  
16 speeding, unsafe lane change, failure to stop when emerging from  
17 an alley, and various other, moving violations, swerved off  
18 Kalakaua Avenue in Waikiki at 4:00 a.m. and struck two men on



1 the sidewalk waiting to go to work. The driver's vehicle hit a  
2 utility pole, pinning the two men under the vehicle and hitting  
3 a third man. The driver was not hurt but was charged with  
4 driving under the influence of intoxicants and negligent injury.

5 The purpose of this Act is to protect the public by  
6 ensuring that persons who accumulate five or more moving  
7 violations within a five-year period will have their licenses  
8 revoked for minimum of five years and a maximum of ten years.

9 SECTION 2. Section 286-124, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 **"§286-124 Mandatory revocation of license by a court. (a)**

12 Any court of competent jurisdiction shall forthwith revoke the  
13 license of any driver upon a conviction of the driver of  
14 manslaughter resulting from the operation of a motor vehicle.

15 (b) Any court of competent jurisdiction shall forthwith  
16 revoke, for a minimum of five years and a maximum of ten years,  
17 the license of any driver if the court finds that the driver has  
18 committed five or more traffic infractions involving violations  
19 of statutes, ordinances, or rules relating to traffic movement  
20 and control arising out of separate incidents occurring within  
21 the preceding five-year period. For the purposes of this  
22 subsection, multiple traffic infractions arising from the same



1 course of conduct shall be considered a single traffic  
2 infraction."

3 SECTION 3. Section 291D-5, Hawaii Revised Statutes, is  
4 amended by amending subsection (d) to read as follows:

5 "(d) The notice of traffic infraction shall include the  
6 following:

7 (1) A statement of the specific traffic infraction for  
8 which the notice was issued;

9 (2) Except in the case of parking-related traffic  
10 infractions, a brief statement of the facts;

11 (3) A statement of the total amount to be paid for each  
12 traffic infraction, which amount shall include any  
13 fee, surcharge, or cost required by statute,  
14 ordinance, or rule, and any monetary assessment,  
15 established for the particular traffic infraction  
16 pursuant to section 291D-9, to be paid by the driver  
17 or registered owner of the vehicle, which shall be  
18 uniform throughout the State;

19 (4) A statement of the options provided in section 291D-  
20 6(b) for answering the notice and the procedures  
21 necessary to exercise the options;



1 (5) A statement that the person to whom the notice is  
 2 issued must answer, choosing one of the options  
 3 specified in section 291D-6(b), within twenty-one days  
 4 of issuance of the notice;

5 (6) A statement that, if the person:  
 6 (A) Admits a traffic infraction;  
 7 (B) Admits the traffic infraction but seeks to  
 8 explain mitigating circumstances; or  
 9 (C) Fails to answer a notice of traffic infraction;  
 10 when the traffic infraction involves a violation of  
 11 statutes, ordinances, or rules relating to traffic  
 12 movement and control and the person has committed four  
 13 or more traffic infractions involving violations of  
 14 statutes, ordinances, or rules relating to traffic  
 15 movement and control arising out of separate incidents  
 16 occurring within the preceding five-year period, the  
 17 person's driver's license shall be revoked for a  
 18 minimum of five years and a maximum of ten years;

19 [~~6~~] (7) A statement that failure to answer the notice of  
 20 traffic infraction within twenty-one days of issuance  
 21 shall result in the entry of judgment by default for  
 22 the State and may result in the assessment of a late



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

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

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

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



1 proof to be applied by the court is whether a  
2 preponderance of the evidence proves that the  
3 specified traffic infraction was committed;

4 [~~8~~] (9) A statement that, at a hearing requested for the  
5 purpose of explaining mitigating circumstances  
6 surrounding the commission of the infraction or in  
7 consideration of a written request for mitigation, the  
8 person shall be considered to have committed the  
9 traffic infraction~~[\*]~~ and that there shall be no  
10 appeal from the court's decision;

11 [~~9~~] (10) A space in which the signature of the person to  
12 whom the notice was issued may be affixed; and

13 [~~10~~] (11) The date, time, and place at which the person to  
14 whom the notice was issued must appear in court, if  
15 the person is required by the notice to appear in  
16 person at the hearing."

17 SECTION 4. Section 291D-7, Hawaii Revised Statutes, is  
18 amended as follows:

19 1. By amending subsection (a) to read:

20 "(a) When an admitting answer is received, the court shall  
21 enter judgment in favor of the State in the total amount  
22 specified in the notice of traffic infraction. If the total



1 amount is not submitted with the answer, the court may take  
2 action as provided in section 291D-10. If the court finds that  
3 the driver has committed five or more traffic infractions  
4 involving violations of statutes, ordinances, or rules relating  
5 to traffic movement and control arising out of separate  
6 incidents occurring within the preceding five-year period, the  
7 court shall revoke the person's driver's license for a minimum  
8 of five years and a maximum of ten years. The court shall mail  
9 a notice of entry of judgment to the address provided by the  
10 person when the notice of traffic infraction was issued, notify  
11 the person of the revocation and its length, and notify the  
12 person that the driver's license must be surrendered as required  
13 by section 286-122(a)."

14 2. By amending subsection (c) to read:

15 "(c) When an answer admitting commission of the traffic  
16 infraction but seeking to explain mitigating circumstances is  
17 received, the court shall proceed as follows:

18 (1) In the case of a traffic infraction where the person  
19 requests a hearing at which the person will appear in  
20 person to explain mitigating circumstances, the court  
21 shall notify the person in writing of the date, time,  
22 and place of hearing to explain mitigating



1           circumstances. The notice of hearing shall be mailed  
2           to the address stated in the answer, or if none is  
3           given, to the address stated on the notice of traffic  
4           infraction. The notification also shall advise the  
5           person that, if the person fails to appear at the  
6           hearing, the court shall enter judgment by default in  
7           favor of the State, as of the date of the scheduled  
8           hearing, that the total amount stated in the default  
9           judgment must be paid within thirty days of entry of  
10          default judgment, and, if it is not paid, that the  
11          court shall take action as provided in section 291D-  
12          10; and

- 13          (2) If a written explanation is included with an answer  
14          admitting commission of the infraction, the court  
15          shall enter judgment for the State and, after  
16          reviewing the explanation, determine the total amount  
17          of the monetary assessments, fees, surcharges, or  
18          costs to be assessed, if any. The court shall then  
19          notify the person of the total amount to be paid for  
20          the infraction, if any. If the court finds that the  
21          driver has committed five or more traffic infractions  
22          involving violations of statutes, ordinances, or rules



1 relating to traffic movement and control arising out  
2 of separate incidents occurring within the preceding  
3 five-year period, the court shall revoke the person's  
4 driver's license for a minimum of five years and a  
5 maximum of ten years, as required by section 286-  
6 124(b), notify the person of the revocation and its  
7 length, and notify the person that the driver's  
8 license must be surrendered as required by section  
9 286-122(a). There shall be no appeal from the  
10 judgment. If the court assesses an amount for  
11 monetary assessments, fees, surcharges, or costs, the  
12 court shall also notify the person that the total  
13 amount shall be paid within thirty days of entry of  
14 judgment. The notice of entry of judgment also shall  
15 inform the person that if the total amount is not paid  
16 within thirty days, the court shall take action as  
17 provided in section 291D-10."

18 3. By amending subsection (e) to read:

19 "(e) Whenever judgment by default in favor of the State is  
20 entered, the court shall mail a notice of entry of default  
21 judgment to the address provided by the person when the notice  
22 of traffic infraction was issued or, in the case of parking



1    infractions, to the address stated in the answer, if any, or the  
2    address at which the vehicle is registered. If the court has  
3    revoked the person's driver's license as required by section  
4    286-124(b), the notice of entry of default judgment shall notify  
5    the person of the revocation and its length and that the  
6    driver's license must be surrendered as required by section  
7    286-122(a). The notice of entry of default judgment shall  
8    advise the person that the total amount specified in the default  
9    judgment shall be paid within thirty days of entry of default  
10   judgment and shall explain the procedure for setting aside a  
11   default judgment. The notice of entry of default judgment shall  
12   also inform the person that if the total amount is not paid  
13   within thirty days, the court shall take action as provided in  
14   section 291D-10. Judgment by default for the State entered  
15   pursuant to this chapter may be set aside pending final  
16   disposition of the traffic infraction upon written application  
17   of the person and posting of an appearance bond equal to the  
18   amount of the total amount specified in the default judgment and  
19   any other assessment imposed pursuant to section 291D-9. The  
20   application shall show good cause or excusable neglect for the  
21   person's failure to take action necessary to prevent entry of  
22   judgment by default. Upon receipt of the application and



1 required appearance bond, the court shall take action to remove  
2 the restriction placed on the person's driver's license or the  
3 motor vehicle's registration and title imposed pursuant to  
4 section 291D-10. Thereafter, the court shall determine whether  
5 good cause or excusable neglect exists for the person's failure  
6 to take action necessary to prevent entry of judgment by  
7 default. If so, the application to set aside default judgment  
8 shall be granted, the default judgment shall be set aside, and  
9 the notice of traffic infraction shall be disposed of pursuant  
10 to this chapter. If not, the application to set aside default  
11 judgment shall be denied, the appearance bond shall be forfeited  
12 and applied to satisfy amounts due under the default judgment,  
13 and the notice of traffic infraction shall be finally disposed.  
14 In either case, the court shall determine the existence of good  
15 cause or excusable neglect and notify the person of its decision  
16 on the application in writing."

17 SECTION 5. Section 291D-12, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 **"§291D-12 Powers of the district court judge sitting in**  
20 **the traffic division.** A district court judge sitting in the  
21 traffic division and hearing cases pursuant to this chapter



1 shall have all the powers of a district court judge under  
2 chapter 604, including the following powers:

3 (1) To conduct traffic infraction hearings and to impose  
4 monetary assessments;

5 (2) To permit deferral of monetary assessment or impose  
6 community service in lieu thereof;

7 (3) To dismiss a notice of traffic infraction, with or  
8 without prejudice, or to set aside a judgment for the  
9 State;

10 (4) To order temporary driver's license suspension,  
11 driver's license revocation, or driver's license  
12 reinstatement;

13 (5) To order the director of finance not to issue or renew  
14 the driver's license, or to register, renew the  
15 registration of, or issue title to a motor vehicle, of  
16 any person who has not paid a monetary assessment, has  
17 not performed community service in lieu thereof, or  
18 has not otherwise satisfied a judgment for the State  
19 entered pursuant to this chapter;

20 (6) To approve the issuance or renewal of a driver's  
21 license or instruction permit pursuant to section  
22 286-109(c);



1 (7) To issue penal summonses and bench warrants and  
2 initiate contempt of court proceedings in proceedings  
3 conducted pursuant to section 291D-13;

4 (8) To issue penal summonses and bench warrants and  
5 initiate failure to appear proceedings in proceedings  
6 conducted pursuant to section 291D-5(d)(10); and

7 (9) To exercise other powers the court finds necessary and  
8 appropriate to carry out the purposes of this  
9 chapter."

10 SECTION 6. This Act does not affect rights and duties that  
11 matured, penalties that were incurred, and proceedings that were  
12 begun, before its effective date.

13 SECTION 7. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 8. This Act shall take effect on January 1, 2009.

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INTRODUCED BY:

  
  
  
JAN 1 8 2008



**Report Title:**

Traffic Infractions; License Revocation

**Description:**

Requires license revocation for a minimum of 5 years and a maximum of 10 years for driver who is determined to have committed 5 or more traffic infractions relating to traffic movement and control arising out of separate incidents within the preceding 5-year period. Effective 1/1/09.

