

JAN 17 2020

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# A BILL FOR AN ACT

RELATING TO MONETARY OBLIGATIONS.

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

1 PART I

2 SECTION 1. The legislature finds that Hawai'i law allows  
3 for the imposition of restrictions on an individual's ability to  
4 obtain or renew a driver's license or motor vehicle registration  
5 as a penalty for various unpaid monetary obligations that are  
6 civil and not criminal in nature. The most concerning reason  
7 for these punitive restrictions is the failure of an individual  
8 to pay the fines and fees assessed in connection with non-  
9 parking related traffic tickets within thirty days. This  
10 practice of imposing driver's license or vehicle registration  
11 "stoppers" may also occur as a consequence of other unpaid civil  
12 obligations.

13 The legislature further finds that, according to a  
14 Washington Post investigation, more than seven million  
15 individuals nationwide have had their driver's licenses  
16 suspended for unpaid court or administrative debt. The  
17 investigation also found that Hawai'i has a high percentage --



1 nine per cent -- of adults who have had their licenses suspended  
2 for unpaid debt. The American Bar Association recently adopted  
3 guidelines on preventing fines and fees that penalize poverty.  
4 These guidelines instruct against driver's license suspensions  
5 and the imposition of fines that result in substantial and undue  
6 hardship. At least four states do not allow driver's licenses  
7 to be suspended or restricted for unpaid court debt. The  
8 inability to obtain or renew a driver's license prevents people  
9 who have not committed a crime from getting to work, picking up  
10 their children, keeping medical appointments, and ultimately  
11 from escaping debt.

12 The purpose of this Act is to prohibit the imposition of  
13 restrictions on a person's ability to obtain or renew a driver's  
14 license or to register, renew the registration of, or transfer  
15 or receive title to a motor vehicle, as a consequence of unpaid  
16 monetary obligations. However, this Act shall not have any  
17 effect on driver's license suspensions related to excessive  
18 speeding, lack of motor vehicle insurance, or non-compliance  
19 with a child support order.

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## PART II



1 SECTION 2. Section 286-109, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:  
3 "(c) Statutes of limitations and other provisions of this  
4 chapter notwithstanding, no driver's license or instruction  
5 permit shall be issued or renewed under this section, where the  
6 examiner of drivers is notified by the district judge, traffic  
7 violations bureaus of the district courts, or the judge of the  
8 circuit court that the applicant has failed to respond to a  
9 traffic citation or summons, or failed to appear in court after  
10 an arrest for the violation of any traffic laws of a county,  
11 this chapter or chapter 286G, 287, 290, 291, or 291C, or of any  
12 motor vehicle insurance laws under article 10C of chapter 431,  
13 or of any motorcycle or motor scooter insurance laws under  
14 article 10G of chapter 431, and the same remains delinquent and  
15 outstanding, or the applicant, has as of the time of the  
16 application, failed to comply in full with all orders of the  
17 court; provided that this subsection shall not apply to  
18 outstanding and delinquent payments pursuant to chapter 291D;  
19 provided further that the district court with whose order an  
20 applicant has failed to comply in full, may approve the issuance  
21 or renewal of a driver's license or instruction permit other



1 than a commercial driver's license upon conditions imposed by  
2 the court for the satisfaction of the outstanding court order  
3 and any other conditions as may be imposed by the court, if one  
4 or more of the following conditions are met:

5 (1) The applicant is gainfully employed in a position that  
6 requires driving and will be discharged if the  
7 applicant is unable to drive; or

8 (2) The applicant has no access to alternative  
9 transportation and therefore must drive to work;

10 provided further that if the applicant has failed to comply in  
11 full with orders of the district court of more than one circuit,  
12 the applicant shall obtain the approval of the district court of  
13 each circuit in which the applicant has an outstanding court  
14 order before a driver's license or instruction permit may be  
15 issued or renewed under this subsection.

16 A driver's license or instruction permit issued or renewed  
17 under this subsection shall be subject to immediate suspension  
18 by the court upon the applicant's failure to remain in full  
19 compliance with all conditions imposed by the court for the  
20 issuance or renewal of the driver's license or instruction  
21 permit. The examiner of drivers may place an indication of



1 restriction upon a driver's license or instruction permit issued  
2 or renewed under this subsection. Proof of financial  
3 responsibility under section 287-20 shall not apply to the  
4 issuance or renewal of driver's licenses or instruction permits  
5 under this subsection."

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

8 "(d) The notice of traffic infraction shall include the  
9 following:

- 10 (1) A statement of the specific traffic infraction for  
11 which the notice was issued;
- 12 (2) Except in the case of parking-related traffic  
13 infractions, a brief statement of the facts;
- 14 (3) A statement of the total amount to be paid for each  
15 traffic infraction, which amount shall include any  
16 fee, surcharge, or cost required by statute,  
17 ordinance, or rule, and any monetary assessment,  
18 established for the particular traffic infraction  
19 pursuant to section 291D-9, to be paid by the driver  
20 or registered owner of the vehicle, which shall be  
21 uniform throughout the State;



- 1 (4) A statement of the options provided in section  
2 291D-6(b) for answering the notice and the procedures  
3 necessary to exercise the options;
- 4 (5) A statement that the person to whom the notice is  
5 issued must answer, choosing one of the options  
6 specified in section 291D-6(b), within twenty-one days  
7 of issuance of the notice;
- 8 (6) A statement that failure to answer the notice of  
9 traffic infraction within twenty-one days of issuance  
10 shall result in the entry of judgment by default for  
11 the State and may result in the assessment of a late  
12 penalty[, and, that if the person to whom the notice  
13 was issued fails to pay the total amount specified in  
14 the default judgment within an additional thirty days  
15 or to otherwise take action to set aside the default,  
16 notice shall be sent to the director of finance of the  
17 appropriate county:
- 18 ~~(A) That the person to whom the notice of infraction~~  
19 ~~not involving parking was issued shall not be~~  
20 ~~permitted to renew or obtain a driver's license;~~  
21 ~~or~~



1           ~~(B) Where the notice was issued to a motor vehicle,~~  
2           ~~that the registered owner shall not be permitted~~  
3           ~~to register, renew the registration of, or~~  
4           ~~transfer title to the motor vehicle until the~~  
5           ~~traffic infraction is finally disposed of~~  
6           ~~pursuant to this chapter, except as provided in~~  
7           ~~section 291D-10(b)];~~

8           (7) A statement that, at a hearing requested to contest  
9           the notice of traffic infraction conducted pursuant to  
10          section 291D-8, no officer shall be present unless the  
11          driver timely requests the court to have the officer  
12          present, and that the standard of proof to be applied  
13          by the court is whether a preponderance of the  
14          evidence proves that the specified traffic infraction  
15          was committed;

16          (8) A statement that, at a hearing requested for the  
17          purpose of explaining mitigating circumstances  
18          surrounding the commission of the infraction or in  
19          consideration of a written request for mitigation, the  
20          person shall be considered to have committed the  
21          traffic infraction;



1           (9) A space in which the signature of the person to whom  
2           the notice was issued may be affixed; and

3           (10) The date, time, and place at which the person to whom  
4           the notice was issued must appear in court, if the  
5           person is required by the notice to appear in person  
6           at the hearing."

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

9           1. By amending subsections (a), (b), and (c) to read:

10          "(a) When an admitting answer is received, the court shall  
11 enter judgment in favor of the State in the total amount  
12 specified in the notice of traffic infraction. [~~If the total  
13 amount is not submitted with the answer, the court may take  
14 action as provided in section 291D-10.~~]

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

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





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

- 13          (2) When a denying answer is accompanied by a written  
14          statement of the grounds on which the person contests  
15          the notice of traffic infraction, the court shall  
16          proceed as provided in section 291D-8(a) and shall  
17          notify the person of its decision, including the total  
18          amount assessed, if any, by mailing the notice of  
19          entry of judgment within forty-five days of the  
20          postmarked date of the answer to the address provided  
21          by the person in the denying answer, or if none is



1 given, to the address given when the notice of traffic  
2 infraction was issued or, in the case of parking  
3 violations, to the address at which the vehicle is  
4 registered. The notice of entry of judgment also  
5 shall advise the person, if it is determined that the  
6 infraction was committed and judgment is entered in  
7 favor of the State, that the person has the right,  
8 within thirty days of entry of judgment, to request a  
9 trial and shall specify the procedures for doing so.  
10 The notice of entry of judgment shall also notify the  
11 person, if an amount is assessed by the court for  
12 monetary assessments, fees, surcharges, or costs, that  
13 if the person does not request a trial within the time  
14 specified in this paragraph, the total amount assessed  
15 shall be paid within thirty days of entry of judgment.

16 ~~[The notice of entry of judgment shall inform the~~  
17 ~~person that if the total amount is not paid within~~  
18 ~~thirty days, the court shall take action as provided~~  
19 ~~in section 291D-10.]~~



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

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



1           (2) If a written explanation is included with an answer  
2           admitting commission of the infraction, the court  
3           shall enter judgment for the State and, after  
4           reviewing the explanation, determine the total amount  
5           of the monetary assessments, fees, surcharges, or  
6           costs to be assessed, if any. The court shall then  
7           notify the person of the total amount to be paid for  
8           the infraction, if any. There shall be no appeal from  
9           the judgment. If the court assesses an amount for  
10          monetary assessments, fees, surcharges, or costs, the  
11          court shall also notify the person that the total  
12          amount shall be paid within thirty days of entry of  
13          judgment. ~~[The notice of entry of judgment also shall~~  
14          ~~inform the person that if the total amount is not paid~~  
15          ~~within thirty days, the court shall take action as~~  
16          ~~provided in section 291D-10.] "~~

17          2. By amending subsection (e) to read:

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



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

14 SECTION 5. Section 291D-8, Hawaii Revised Statutes, is  
15 amended by amending subsection (c) to read as follows:

16 "(c) If a person for whom a hearing has been scheduled, to  
17 contest the notice of traffic infraction or to explain  
18 mitigating circumstances, fails to appear at the hearing, the  
19 court shall enter judgment by default for the State and take  
20 action as provided in section 291D-7(e). [~~If the total amount~~  
21 ~~of the monetary assessment, fees, surcharges, or costs is not~~



1 ~~paid within thirty days of entry of default judgment, the court~~  
2 ~~shall take action as provided in section 291D-10.] "~~

3 SECTION 6. Section 291D-9, Hawaii Revised Statutes, is  
4 amended by amending subsection (d) to read as follows:

5 "(d) The court may grant to a person claiming inability to  
6 pay, an extension of the period in which the monetary assessment  
7 shall be paid or may impose community service in lieu thereof.  
8 [~~If the assessment is not paid or the community service is not~~  
9 ~~performed on or before the date established and the court has~~  
10 ~~not extended the time, the court shall take action as provided~~  
11 ~~in section 291D-10.] "~~

12 SECTION 7. Section 291D-12, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "**§291D-12 Powers of the district court judge sitting in**  
15 **the traffic division.** (a) A district court judge sitting in  
16 the traffic division and hearing cases pursuant to this chapter  
17 shall have all the powers of a district court judge under  
18 chapter 604, including the following powers:

19 (1) To conduct traffic infraction hearings and to impose  
20 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, has~~
- 12           ~~not performed community service in lieu thereof, or~~
- 13           ~~has not otherwise satisfied a judgment for the State~~
- 14           ~~entered pursuant to this chapter;~~
- 15           +(6) (5) To approve the issuance or renewal of a driver's
- 16           license or instruction permit pursuant to section
- 17           286-109(c);
- 18           ~~+(7)~~ (6) To issue penal summonses and bench warrants and
- 19           initiate contempt of court proceedings in proceedings
- 20           conducted pursuant to section 291D-13;





1       ~~[(8)]~~ (7) 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       ~~[(9)]~~ (8) To exercise other powers the court finds  
5           necessary and appropriate to carry out the purposes of  
6           this chapter.

7       (b) A district court judge sitting in the traffic division  
8 and hearing cases pursuant to this chapter shall not order the  
9 director of finance to withhold issuing or renewing the driver's  
10 license, or registering, renewing the registration of, or  
11 issuing the title to a motor vehicle, of any person who has not  
12 paid a monetary assessment, has not performed community service  
13 in lieu thereof, or has not otherwise satisfied a judgment for  
14 the State entered pursuant to this chapter."

15       SECTION 8. Section 291-4.6, Hawaii Revised Statutes, is  
16 repealed.

17       ~~["~~§291-4.6~~ Driving after license suspended or denied for~~  
18 ~~noncompliance with an order of support; penalties. (a) No~~  
19 ~~person whose driver's license has been suspended, denied, or~~  
20 ~~otherwise restricted pursuant to section 576D-13 shall operate a~~  
21 ~~motor vehicle upon the public streets, roads, or highways of~~



1 ~~this State while the person's license remains suspended or~~  
2 ~~denied.~~

3 ~~(b) Any person convicted of violating this section shall~~  
4 ~~be sentenced as follows:~~

5 ~~(1) For a first offense, or any offense not preceded~~  
6 ~~within a five year period by a conviction under this~~  
7 ~~section:~~

8 ~~(A) A term of imprisonment at least three consecutive~~  
9 ~~days but not more than thirty days;~~

10 ~~(B) A fine not less than \$250 but not more than~~  
11 ~~\$1,000; and~~

12 ~~(C) License suspension or denial shall continue until~~  
13 ~~written authorization of compliance is issued by~~  
14 ~~the child support enforcement agency, the office~~  
15 ~~of child support hearings, or the family court;~~  
16 ~~and~~

17 ~~(2) For an offense which occurs within five years of a~~  
18 ~~prior conviction under this section:~~

19 ~~(A) Thirty days' imprisonment;~~

20 ~~(B) A fine of \$1,000; and~~



1           ~~(C) License suspension or denial shall continue until~~  
2           ~~written authorization of compliance pursuant to~~  
3           ~~section 576D-13 [is] issued by the child support~~  
4           ~~enforcement agency, the office of child support~~  
5           ~~hearings, or the family court." ]~~

6           SECTION 9. Section 291D-10, Hawaii Revised Statutes, is  
7           repealed.

8           ~~["§291D-10 Restriction on driver's license and motor~~  
9           ~~vehicle registration. (a) When the person issued a notice of~~  
10           ~~traffic infraction not involving parking fails to pay the total~~  
11           ~~amount of fines, fees, surcharges, costs, or monetary~~  
12           ~~assessments that has been ordered, the court shall cause an~~  
13           ~~entry to be made in the driver's license record so as to prevent~~  
14           ~~the person from acquiring or renewing the person's driver's~~  
15           ~~license until the outstanding amount is paid or the notice of~~  
16           ~~traffic infraction is otherwise disposed of pursuant to this~~  
17           ~~chapter.~~

18           ~~(b) In all cases where the registered owner of a motor~~  
19           ~~vehicle to which a notice of traffic infraction has been issued~~  
20           ~~fails to pay the total amount of fines, fees, surcharges, costs,~~  
21           ~~or monetary assessments that have been ordered, the court shall~~



1 ~~cause an entry to be made in the motor vehicle's record so as to~~  
2 ~~prevent issuance or renewal of the motor vehicle's certificate~~  
3 ~~of registration and transfer of title to the motor vehicle until~~  
4 ~~the outstanding amount is paid or the notice of traffic~~  
5 ~~infraction is otherwise disposed of pursuant to this chapter,~~  
6 ~~provided that if the traffic infraction involves an unpaid~~  
7 ~~parking violation, this subsection shall not prevent the~~  
8 ~~issuance or renewal of the motor vehicle's certificate of~~  
9 ~~registration and transfer of title to the motor vehicle to~~  
10 ~~another person, in which case the clerk of the court shall issue~~  
11 ~~a clearance to effectuate the registration and transfer of~~  
12 ~~title; and provided further that in no event shall a clearance:~~

- 13 ~~(1) Absolve the registered owner of the motor vehicle at~~  
14 ~~the time the parking violation was incurred from~~  
15 ~~paying the fine;~~
- 16 ~~(2) Prevent any subsequent issuance or renewal of the~~  
17 ~~motor vehicle's certificate of registration and~~  
18 ~~transfer of title to the motor vehicle; or~~
- 19 ~~(3) Otherwise encumber the title of that motor vehicle." ]~~

20 PART III



1 SECTION 10. All existing restrictions on driver's licenses  
 2 and motor vehicle registrations or issuances or transfers of  
 3 title that have been imposed pursuant to section 291D-10, Hawaii  
 4 Revised Statutes, shall be void and unenforceable as of the  
 5 effective date of this Act. The judiciary shall work with the  
 6 counties to identify persons directly affected by the  
 7 restrictions imposed pursuant to section 291D-10, Hawaii Revised  
 8 Statutes, and take any actions necessary to effectuate the  
 9 purposes of this Act.

10 PART IV

11 SECTION 11. Statutory material to be repealed is bracketed  
 12 and stricken. New statutory material is underscored.

13 SECTION 12. This Act shall take effect upon its approval.

14

INTRODUCED BY: Kal Rhooh



# S.B. NO. 2630

**Report Title:**

Traffic Infractions; Driver Licensing; Vehicle Registration;  
"Stoppers"

**Description:**

Prohibits the imposition of restrictions on a person's ability to obtain or renew a driver's license or to register, renew the registration of, or transfer or receive title to a motor vehicle, as a consequence of unpaid monetary obligations. Does not affect driver's license suspensions related to excessive speeding, lack of motor vehicle insurance, or non-compliance with a child support order.

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