
A BILL FOR AN ACT

RELATING TO FINANCIAL HARDSHIP.

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

1 SECTION 1. Section 286-136, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§286-136~~ **Penalty.** (a) Except as provided in
4 subsection (b), any person who violates section 286-102,
5 286-122, 286-130, 286-131, 286-132, 286-133, or 286-134 shall be
6 fined [~~not~~] no more than \$1,000 or imprisoned [~~not~~] no more than
7 thirty days, or both. Any person who violates any other section
8 in this part shall be fined [~~not~~] no more than \$1,000.

9 (b) Any person who is convicted of violating
10 section 286-102, 286-122, 286-130, 286-131, 286-132, 286-133,
11 or 286-134 shall be subject to a minimum fine of \$500 and a
12 maximum fine of \$1,000, or imprisoned [~~not~~] no more than
13 one year, or both, if the person has two or more prior
14 convictions for the same offense in the preceding five-year
15 period.

16 (c) Notwithstanding subsections (a) and (b), a minor under
17 the age of eighteen under the jurisdiction of the family court



1 who is subject to this section shall either lose the right to
2 drive a motor vehicle until the age of eighteen or be subject to
3 a fine of \$500.

4 (d) Any person subject to a fine under this section and
5 who fails to timely pay the fine shall be given an opportunity
6 to petition the court to demonstrate that the person's
7 nonpayment or inability to pay is not wilful; provided that if
8 the person petitions the court, the court shall make an
9 individualized assessment of the person's ability to pay based
10 upon the totality of the circumstances, including the person's
11 disposable income, financial obligations, and liquid assets;
12 provided further that if the court determines that the person's
13 nonpayment or inability to pay is not wilful, the court may
14 enter an order that allows additional time for payment; reduces
15 the amount of each installment; revokes the fee or fine, or
16 unpaid portion thereof, in whole or in part; or converts any
17 outstanding fine to community service."

18 SECTION 2. Section 291D-9, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[+]§291D-9[+] **Monetary assessments.** (a) A person found
21 to have committed a traffic infraction shall be assessed a



1 monetary assessment not to exceed the maximum fine specified in
2 the statute defining the traffic infraction. The court shall
3 consider a person's financial circumstances, if disclosed, in
4 determining the monetary assessment.

5 (b) Notwithstanding section 291C-161 or any other law to
6 the contrary, the district court of each circuit shall prescribe
7 a schedule of monetary assessments for all traffic infractions,
8 and any additional assessments to be imposed pursuant to
9 subsection (c). The particular assessment to be entered on the
10 notice of traffic infraction pursuant to section 291D-5 shall
11 correspond to the schedule prescribed by the district court.
12 Except after proceedings conducted pursuant to section 291D-8 or
13 a trial conducted pursuant to section 291D-13, monetary
14 assessments assessed pursuant to this chapter shall not vary
15 from the schedule prescribed by the district court having
16 jurisdiction over the traffic infraction.

17 (c) In addition to any monetary assessment imposed for a
18 traffic infraction, the court may impose additional assessments
19 for:

20 (1) Failure to pay a monetary assessment by the scheduled
21 date of payment; or



1 (2) The cost of service of a penal summons issued pursuant
2 to this chapter.

3 (d) ~~[The]~~ Upon request of a person claiming inability to
4 pay a monetary assessment, the court may grant ~~[to a person~~
5 ~~claiming inability to pay,]~~ an extension of the period in which
6 the monetary assessment shall be paid or may impose community
7 service in lieu thereof.

8 (e) At any point before full payment of a monetary
9 assessment, any person who suffers a change in financial
10 circumstances may request a hearing to modify the monetary
11 assessment or to request community service in lieu thereof."

12 SECTION 3. Section 431:10C-117, Hawaii Revised Statutes,
13 is amended by amending subsection (a) to read as follows:

14 "(a) (1) Any person subject to this article in the capacity of
15 the operator, owner, or registrant of a motor vehicle
16 operated in this State, or registered in this State,
17 who violates any applicable provision of this article,
18 shall be subject to citation for the violation by any
19 county police department in a form and manner approved
20 by the traffic violations bureau of the district court
21 of the first circuit;



1 (2) Notwithstanding any provision of the Hawaii Penal
2 Code:

3 (A) Each violation shall be deemed a separate offense
4 and shall be subject to a fine of [~~not~~] no less
5 than \$100 nor more than \$5,000 which shall not be
6 suspended except as provided in subparagraph (B);
7 and

8 (B) If the person is convicted of not having had a
9 motor vehicle insurance policy in effect at the
10 time the citation was issued, the fine shall be
11 \$500 for the first offense and a minimum of
12 \$1,500 for each subsequent offense that occurs
13 within a five-year period from any prior offense;
14 provided that the [~~judge~~] court:

15 (i) Shall have the discretion to suspend all or
16 any portion of the fine if the defendant
17 provides proof of having a current motor
18 vehicle insurance policy; provided further
19 that upon the defendant's request, the
20 [~~judge~~] court may grant community service in
21 lieu of the fine, of [~~not~~] no less than



1 seventy-five hours and [~~not~~] no more than
2 one hundred hours for the first offense, and
3 [~~not~~] no less than two hundred hours nor
4 more than two hundred seventy-five hours for
5 the second offense; and
6 (ii) May grant community service in lieu of the
7 fine for subsequent offenses at the
8 [~~judge's~~] court's discretion;
9 (3) In addition to the fine in paragraph (2), the court
10 shall either:
11 (A) Suspend the driver's license of the driver or of
12 the registered owner for:
13 (i) Three months for the first conviction; and
14 (ii) One year for any subsequent offense within a
15 five-year period from a previous offense;
16 provided that the driver or the registered owner
17 shall not be required to obtain proof of
18 financial responsibility pursuant to
19 section 287-20; or



1 (B) Require the driver or the registered owner to
2 keep a nonrefundable motor vehicle insurance
3 policy in force for six months;

4 (4) Any person subject to a fine under this section and
5 who fails to timely pay the fine shall be given an
6 opportunity to petition the court to demonstrate that
7 the person's nonpayment or inability to pay is not
8 wilful; provided that if the person petitions the
9 court, the court shall make an individualized
10 assessment of the person's ability to pay based upon
11 the totality of the circumstances, including the
12 person's disposable income, financial obligations, and
13 liquid assets; provided further that if the court
14 determines that the person's nonpayment or inability
15 to pay is not wilful, the court may enter an order
16 that allows additional time for payment; reduces the
17 amount of each installment; revokes the fee or fine,
18 or unpaid portion thereof, in whole or in part; or
19 converts any outstanding fine to community service;

20 [~~4~~] (5) Any person cited under this section shall have an
21 opportunity to present a good faith defense, including



1 ~~[but not limited to]~~ lack of knowledge or proof of
2 insurance~~[-. The]~~; provided that the general penalty
3 provision of this section shall not apply to:

4 (A) Any operator of a motor vehicle owned by another
5 person if the operator's own insurance covers
6 such driving;

7 (B) Any operator of a motor vehicle owned by that
8 person's employer during the normal scope of that
9 person's employment; or

10 (C) Any operator of a borrowed motor vehicle if the
11 operator holds a reasonable belief that the
12 subject vehicle is insured;

13 ~~[-5-]~~ (6) In the case of multiple convictions for driving
14 without a valid motor vehicle insurance policy within
15 a five-year period from any prior offense, the court,
16 in addition to any other penalty, shall impose the
17 following penalties:

18 (A) Imprisonment of ~~[not]~~ no more than thirty days;

19 (B) Suspension or revocation of the motor vehicle
20 registration plates of the vehicle involved;



1 (C) Impoundment, or impoundment and sale, of the
2 motor vehicle for the costs of storage and other
3 charges incident to seizure of the vehicle, or
4 any other cost involved pursuant to
5 section 431:10C-301; or

6 (D) Any combination of those penalties; and
7 [~~(6)~~] (7) Any violation as provided in [~~subsection~~
8 ~~(a)(2)(B)~~] paragraph (2)(B) shall not be deemed to be
9 a traffic infraction as defined by chapter 291D."

10 SECTION 4. Section 706-644, Hawaii Revised Statutes, is
11 amended by amending subsection (3) to read as follows:

12 "(3) The term of imprisonment for nonpayment of fee, fine,
13 or restitution shall be specified in the order of commitment,
14 and shall not exceed one day for each [~~\$25~~] \$250 of the fee or
15 fine, thirty days if the fee or fine was imposed upon conviction
16 of a violation or a petty misdemeanor, or one year in any other
17 case, whichever is the shorter period. A person committed for
18 nonpayment of a fee or fine shall be given credit toward payment
19 of the fee or fine for each day of imprisonment, at the rate of
20 [~~\$25~~] \$250 per day."



1 SECTION 5. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 6. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect upon its approval.



H.B. NO. 631
H.D. 1
S.D. 1
C.D. 1

Report Title:

Financial Hardship; Traffic Offenses; Contumacious Nonpayment

Description:

Provides courts with greater discretion to adjust the payment of fees or fines for violations of certain traffic offenses based on the person's inability to pay or financial circumstances. Decreases the imprisonment term to contumacious nonpayment ratio. Increases the amount of credit given to a person committed for contumacious nonpayment. (CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

