
A BILL FOR AN ACT

RELATING TO MOTOR VEHICLES.

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

1 PART I

2 SECTION 1. The legislature finds that too many motor
3 vehicle drivers are threats to public safety and create risks of
4 injury or death. The legislature believes that impounding
5 vehicles when drivers commit certain traffic violations will
6 greatly contribute to safer roads.

7 Accordingly, the purpose of this part is to:

- 8 (1) Authorize the impoundment of a motor vehicle when the
9 driver is arrested or cited, if the arresting or
10 citing officer has a valid public safety concern;
- 11 (2) Provide that if a law enforcement officer lawfully
12 stops a motor vehicle and the operator is cited for
13 driving without a valid license, the officer shall not
14 permit the cited operator to resume the use of the
15 motor vehicle;
- 16 (3) Require the motor vehicle to be moved by a licensed
17 driver or towed at the registered owner's expense;



1 (4) Provide that the cited operator is responsible for
2 arranging the operator's transportation away from the
3 scene of the stop; and

4 (5) Authorize the impoundment of a motor vehicle when the
5 driver is convicted of, or judgment is found in favor
6 of the State for, certain traffic violations or
7 repeated traffic violations.

8 SECTION 2. Chapter 286, Hawaii Revised Statutes, is
9 amended by adding two new sections to be appropriately
10 designated and to read as follows:

11 "§286- Impoundment of motor vehicles involved in
12 certain traffic violations; exceptions. (a) Except as
13 otherwise provided in this section, in any court case in which a
14 person is convicted of, or which judgment is found in favor of
15 the State for, any alleged traffic violation listed in section
16 291C- (a), the court may order the impoundment of the motor
17 vehicle for no more than thirty days at the registered owner's
18 expense.

19 (b) If the person:

20 (1) Is convicted of violating:



- 1 (A) Section 291E-61, by operating a vehicle under the
2 influence of an intoxicant;
- 3 (B) Section 291E-61.5, by habitually operating a
4 vehicle under the influence of an intoxicant;
- 5 (C) Section 291E-62, by operating a vehicle after
6 license and privilege has been suspended or
7 revoked for operating a vehicle under the
8 influence of an intoxicant; or
- 9 (D) Section 291E-64, by operating a vehicle after
10 consuming a measurable amount of alcohol as a
11 person under the age of twenty-one; and
- 12 (2) Has two or more prior convictions in the previous five
13 years for one or more of the traffic violations listed
14 in this subsection,
- 15 the court may order the impoundment of the motor vehicle for no
16 more than ninety days at the registered owner's expense.
- 17 (c) In determining whether to order an impoundment
18 pursuant to this section, the court shall consider:
- 19 (1) Public safety as the top priority;
- 20 (2) If a motor vehicle was impounded pursuant to section
21 291C- , whether further impoundment is necessary;



- 1 (3) If a third party is the registered owner of the
2 vehicle involved in the violation, whether:
- 3 (A) The person who committed the traffic violation
4 operated the vehicle without the third party's
5 permission; and
- 6 (B) The person who committed the traffic violation
7 would likely continue to have access to the
8 vehicle; and
- 9 (4) Whether the interests of justice would be better
10 served by not impounding the vehicle.
- 11 (d) Notwithstanding subsections (a) through (c), if the
12 person has had multiple convictions for driving without a valid
13 motor vehicle insurance policy within a five-year period from
14 any prior offense, the court, in addition to any other penalty,
15 shall impose the following penalties:
- 16 (1) Imprisonment of no more than thirty days;
17 (2) Suspension or revocation of the motor vehicle
18 registration plates of the vehicle involved;
- 19 (3) Impoundment, or impoundment and sale, of the motor
20 vehicle for the costs of storage and other charges



1 incident to seizure of the vehicle, or any other cost
2 involved pursuant to section 431:10C-301; or
3 (4) Any combination of those penalties.

4 **§286- Unauthorized operators; use of motor vehicle**

5 **prohibited.** (a) If a law enforcement officer lawfully stops a
6 motor vehicle and cites the person operating the motor vehicle
7 for allegedly violating section 286-102, 286-122, 286-130,
8 286-131, 286-132, 286-133, or 286-134, the officer shall not
9 permit the operator to resume the operation of the motor
10 vehicle.

11 (b) The motor vehicle may be removed from the scene of the
12 stop by:

13 (1) The registered owner of the motor vehicle, if the
14 registered owner possesses a valid driver's license;
15 provided that the registered owner is not the cited
16 operator; or

17 (2) Any other individual who possesses a valid driver's
18 license, if the individual has the explicit permission
19 of the registered owner of the motor vehicle;
20 provided that the individual taking possession of the motor
21 vehicle is able to legally park or store the motor vehicle.



1 (c) If an individual described in subsection (b) cannot
2 remove the motor vehicle within a reasonable time, the law
3 enforcement officer shall arrange for the motor vehicle to be
4 towed, at the expense of the motor vehicle's registered owner,
5 to:

6 (1) The address of the motor vehicle's registered owner;

7 or

8 (2) Any location designated by the county in which the
9 stop occurred.

10 (d) The cited operator shall be responsible for arranging
11 the cited operator's transportation from the scene of the stop,
12 which may include the use of public transportation, rideshare or
13 taxi services, or riding as a passenger in a motor vehicle
14 operated by a person possessing a valid driver's license. Any
15 transportation expenses incurred shall be the responsibility of
16 the cited operator. The cited operator shall inform the law
17 enforcement officer of the cited operator's transportation
18 arrangements."

19 SECTION 3. Chapter 291C, Hawaii Revised Statutes, is
20 amended by adding a new section to part XV to be appropriately
21 designated and to read as follows:



1 "§291C- Motor vehicle towing and storage; violations.

2 (a) Except as provided in this section, a police officer who
3 cites or arrests the operator of a motor vehicle for a traffic
4 violation may have the motor vehicle towed to a private tow yard
5 and impounded at the registered owner's expense pursuant to
6 section 291C-165.5(a) if the officer has a valid public safety
7 concern under subsection (b) and the operator is alleged to have
8 violated:

- 9 (1) Section 286-102, by driving without a license;
- 10 (2) Section 286-132, by driving while the person's license
11 is suspended or revoked;
- 12 (3) Section 291-2, by recklessly driving a vehicle;
- 13 (4) Section 291C-12, by being involved in and failing to
14 stop at, or return to the scene of, a collision
15 involving death or serious bodily injury;
- 16 (5) Section 291C-12.5, by being involved in and failing to
17 stop at, or return to a scene of, a collision
18 involving substantial bodily injury;
- 19 (6) Section 291C-12.6, by being involved in and failing to
20 stop at, or return to a scene of, a collision
21 involving bodily injury;



- 1 (7) Section 291C-13, by being involved in and failing to
2 stop at, or return to a scene of, a collision
3 involving damage to vehicle or property;
- 4 (8) Section 291C-105, by excessively speeding; provided
5 that the operator was previously convicted of
6 excessive speeding within five years of the current
7 alleged violation;
- 8 (9) Section 291E-61, by operating a vehicle under the
9 influence of an intoxicant;
- 10 (10) Section 291E-61.5, by habitually operating a vehicle
11 under the influence of an intoxicant;
- 12 (11) Section 291E-62, by operating a vehicle after the
13 person's license and privilege to operate a vehicle
14 has been suspended or revoked for operating a vehicle
15 under the influence of an intoxicant;
- 16 (12) Section 291E-64, by operating a vehicle after
17 consuming a measurable amount of alcohol as a person
18 under the age of twenty-one;
- 19 (13) Section 431:10C-104, by operating a motor vehicle
20 without a valid motor vehicle insurance policy; or



1 (14) Any jailable traffic violation not listed in this
2 subsection; provided that the operator was previously
3 convicted of no fewer than jailable traffic
4 violations within three years of the current alleged
5 violation.

6 (b) A police officer has a valid public safety concern for
7 the purposes of subsection (a) if the officer has reason to
8 believe that, after the operator is cited or released from
9 custody, the operator is likely to attempt to operate the motor
10 vehicle:

- 11 (1) Under the influence of an intoxicant; or
- 12 (2) In a manner that places others at significant risk of
13 injury or death.

14 (c) Notwithstanding subsections (a) and (b), a motor
15 vehicle shall not be towed or impounded pursuant to this section
16 if:

- 17 (1) The registered owner or a passenger present in the
18 vehicle when the operator is arrested, or when a
19 summons or citation is issued:
 - 20 (A) Has a valid driver's license;



1 (B) Is willing and legally able to operate the motor
2 vehicle; and

3 (C) Is not the cited or arrested operator; or

4 (2) The motor vehicle is legally parked at a time and
5 place where the likelihood of the vehicle being
6 subject to theft or vandalism is not likely and
7 traffic or public safety is not impeded.

8 (d) No county police department or police officer shall be
9 responsible for protecting a motor vehicle left on any public
10 way after the motor vehicle's operator has been arrested for a
11 violation listed in subsection (a).

12 (e) For the purposes of this section, "jailable traffic
13 violation" means any traffic crime or violation under this title
14 or other applicable law that is punishable by incarceration."

15 SECTION 4. Section 291C-165.5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§291C-165.5 Motor vehicle towing and storage; settlement;**
18 **disabled vehicles.** (a) Notwithstanding any other provision of
19 this chapter, any vehicle identified for removal pursuant to any
20 state law or county ordinance ordering or authorizing the
21 removal of motor vehicles by any county police department for



1 traffic violations, or any vehicle involved in a motor vehicle
2 accident that cannot be moved under its own power or is
3 otherwise disabled, including a vehicle [~~which~~] that constitutes
4 an obstruction or hazard to traffic, may be towed away at the
5 expense of the registered owner of the vehicle, as provided by
6 this section.

7 (b) The towing company shall determine the name of the
8 lien holder and the last registered owner of the vehicle from
9 the department of transportation or the county department of
10 finance. The lien holder and the registered owner shall be
11 notified by the towing company in writing at the address on
12 record with the department of transportation or with the county
13 department of finance by registered or certified mail of the
14 location of the vehicle, together with a description of the
15 vehicle, within a reasonable period not to exceed twenty days
16 following the tow. The notice shall state:

17 (1) The maximum towing charges and fees allowed by law;

18 (2) The telephone number of the county [~~finance~~]
19 department of finance that arranged for or authorized
20 the tow; [~~and~~]



1 (3) That unless a longer term of impoundment is required
2 by court order, if the vehicle is not recovered within
3 thirty days after the mailing of the notice, the
4 vehicle shall be deemed abandoned and [~~will~~] shall be
5 sold or disposed of as junk[-]; and

6 (4) That the lien holder or registered owner may:

7 (A) Recover possession of the vehicle by paying the
8 towing and other fees allowed by law and file a
9 lawsuit for damages with any court of competent
10 jurisdiction as allowed by law; and

11 (B) Demand an administrative hearing, before or after
12 the person has recovered possession of the
13 vehicle pursuant to subparagraph (A), to
14 determine whether there was a sufficient factual
15 and legal basis for removing the vehicle.

16 Any towing company engaged in towing pursuant to this section
17 shall comply with the requirements of section 291C-135. When
18 the vehicle is recovered after the tow by the last registered
19 owner or lien holder, the party recovering the vehicle shall pay
20 the tow and storage charges, which shall not exceed the charges
21 as provided by section 290-11(b) or the rates agreed upon with



1 the respective counties, whichever is lower, except that tow
2 operators may charge additional reasonable amounts for
3 excavating vehicles from off-road locations and any additional
4 amount allowed by section 290-11(b) for overturned vehicles;
5 provided that if the notice required by this section was not
6 sent within twenty days after the tow, neither the last
7 registered owner nor the lien holder shall be required to pay
8 the tow and storage charges. No notice shall be sent to a legal
9 or last registered owner or any person with any unrecorded
10 interest in the vehicle whose name or address cannot be
11 determined.

12 (c) Any person who violates any provision of this section
13 shall be deemed to have:

14 (1) Engaged in an unfair or deceptive act or practice in
15 the conduct of any trade or commerce within the
16 meaning of section 480-2 and subject to the penalties
17 and remedies of chapter 480; and

18 (2) Furnished services without a license within the
19 meaning of section 487-13 and subject to penalties and
20 remedies under chapter 487.



1 (d) The lien holder and the registered owner shall have
2 ten days after receipt of the notice provided pursuant to
3 subsection (b) to request in writing, from the county police
4 department that caused the vehicle to be removed, an
5 administrative hearing pursuant to chapter 91. The
6 administrative hearing shall be conducted for the sole purpose
7 of allowing the lien holder or registered owner of an impounded
8 vehicle to contest the basis given for the impoundment of the
9 vehicle. The hearing shall be held within five working days of
10 the county police department's receipt of the written request.

11 [~~(d)~~] (e) When a vehicle is recovered by the registered
12 owner or lien holder before written notice is sent by registered
13 or certified mail, the towing company shall provide the
14 registered owner or lien holder with a receipt stating the
15 maximum towing charges and fees allowed by law and the telephone
16 number of the county [~~finance~~] department of finance that
17 arranged for or authorized the tow.

18 [~~(d) When~~] (f) Unless a longer term of impoundment is
19 required by court order, if a vehicle is not recovered within
20 thirty days after the mailing of the notice, it shall be deemed
21 abandoned and the owner of the towing company, or the owner of



1 the towing company's authorized representative, after one
2 statewide public notice as required in section 1-28.5, may
3 negotiate a sale of the vehicle or dispose of it as junk.

4 ~~(e)~~ (g) The authorized seller of the vehicle shall be
5 entitled to the proceeds of the sale to the extent that
6 compensation is due to the authorized seller for services
7 rendered in respect to the vehicle, including reasonable and
8 customary charges for towing, handling, storage, and the cost of
9 the notices and advertising required by this part. Any
10 remaining balance shall be forwarded to the registered owner or
11 lien holder of the vehicle if the registered owner or lien
12 holder is found. If the registered owner or lien holder cannot
13 be found, the balance shall be deposited with the director of
14 finance of the State and shall be paid out to the registered
15 owner or lien holder of the vehicle if a proper claim is filed
16 therefor within one year from the execution of the sales
17 agreement. The lien holder shall have first priority to the
18 funds to the extent of the lien holder's claim. If no claim is
19 made within the year allowed, the money shall escheat to the
20 State.



1 ~~(f)~~ (h) The transfer of title and interest by sale under
2 this section is a transfer by operation of law; provided that if
3 the certificate of ownership or registration is unavailable, a
4 bill of sale executed by an authorized seller is satisfactory
5 evidence authorizing the transfer of the title or interest.

6 ~~(g)~~ (i) In the event that a motor vehicle is involved in
7 an accident and cannot be moved under its own power or is
8 otherwise disabled and constitutes an obstruction or hazard to
9 traffic, and the vehicle has not been ordered to be towed by the
10 applicable county police department, the towing of ~~such~~ the
11 vehicle and the towing and storage expenses shall be subject to
12 the provisions of section 290-11(b).

13 ~~(h)~~ (j) This section shall not apply to a county that
14 has adopted ordinances regulating towing operations. This
15 section shall not apply to automobile clubs or towing companies
16 operating under a contract with an automobile club, insurer, or
17 motor vehicle manufacturer. For the purposes of this
18 subsection, "automobile club" means a legal entity that, in
19 consideration of dues, assessments, or periodic payments of
20 money, promises to assist its members or subscribers in matters
21 relating to motor travel or the operation, use, or maintenance



1 of a motor vehicle by supplying services that may include but
2 are not limited to towing services and emergency road service."

3 PART II

4 SECTION 5. Chapter 291D, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "§291D- Restriction on driver's license and motor

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

17 (b) In all cases where the registered owner of a motor
18 vehicle to which a notice of traffic infraction has been issued
19 fails to pay the total amount of fines, fees, surcharges, costs,
20 or monetary assessments that have been ordered, the court shall
21 cause an entry to be made in the motor vehicle's record so as to



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

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

19 SECTION 6. Section 286-109, Hawaii Revised Statutes, is
 20 amended by amending subsection (c) to read as follows:



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



1 satisfaction of the outstanding court order and any other
2 conditions as may be imposed by the court, if one or more of the
3 following conditions are met:

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

7 (2) The applicant has no access to alternative
8 transportation and therefore must drive to work;
9 provided further that if the applicant has failed to comply in
10 full with orders of the district court of more than one circuit,
11 the applicant shall obtain the approval of the district court of
12 each circuit in which the applicant has an outstanding court
13 order before a driver's license or instruction permit may be
14 issued or renewed under this subsection.

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



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

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

7 "(d) The notice of traffic infraction, notice of emergency
8 period infraction, or notice of fireworks infraction shall
9 include the following:

- 10 (1) A statement of the specific infraction for which the
11 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 infraction, which amount shall include any fee,
16 surcharge, or cost required by statute, ordinance, or
17 rule, and any monetary assessment, established for the
18 particular infraction pursuant to section 291D-9, to
19 be paid by the person to whom the notice was issued,
20 which shall be uniform throughout the State;



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

8 (7) A statement that, at a hearing requested to contest
9 the notice, pursuant to section 291D-8, no officer
10 shall be present unless the person to whom the notice
11 was issued timely requests the court to have the
12 officer present, and that the standard of proof to be
13 applied by the court is whether a preponderance of the
14 evidence proves that the specified infraction was
15 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 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 shall appear in court, if the
5 person is required by the notice to appear in person
6 at the hearing."

7 SECTION 8. 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, notice of
13 emergency period infraction, or notice of fireworks
14 infraction[-]; provided that in the case of a traffic
15 infraction, if the total amount is not submitted with the
16 answer, the court may take action as provided in section
17 291D-_____.

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

20 (1) In the case of a traffic infraction, emergency period
21 infraction, or fireworks infraction where the person



1 requests a hearing at which the person will appear in
2 person to contest the infraction, the court shall
3 notify the person in writing of the date, time, and
4 place of hearing to contest the notice of traffic
5 infraction, notice of emergency period infraction, or
6 notice of fireworks infraction. The notice of hearing
7 shall be mailed to the address stated in the denying
8 answer or, if none is given, to the address stated on
9 the notice of traffic infraction, notice of emergency
10 period infraction, or notice of fireworks infraction.
11 An electronic copy of the notice of hearing may be
12 sent to the electronic mail address stated on the
13 notice of infraction. The notification also shall
14 advise the person that, if the person fails to appear
15 at the hearing, the court shall enter judgment by
16 default in favor of the State, as of the date of the
17 scheduled hearing, and that the total amount specified
18 in the default judgment shall be paid within thirty
19 days of entry of default judgment; ~~and~~ provided that
20 in the case of a traffic infraction, if it is not



1 paid, the court shall take action as provided in
2 section 291D- ; and
3 (2) When a denying answer is accompanied by a written
4 statement of the grounds on which the person contests
5 the notice of traffic infraction, notice of emergency
6 period infraction, or notice of fireworks infraction,
7 the court shall proceed as provided in section 291D-
8 8(a) and shall notify the person of its decision,
9 including the total amount assessed, if any, by
10 mailing the notice of entry of judgment within forty-
11 five days of the postmarked date of the answer to the
12 address provided by the person in the denying answer
13 or, if none is given, to the address given when the
14 notice of traffic infraction, notice of emergency
15 period infraction, or notice of fireworks infraction
16 was issued or, in the case of parking violations, to
17 the address at which the vehicle is registered. An
18 electronic copy of the notice of entry of judgment may
19 be sent to the electronic mail address stated on the
20 notice of infraction. The notice of entry of judgment
21 also shall advise the person, if it is determined that



1 the infraction was committed and judgment is entered
 2 in favor of the State, that the person has the right,
 3 within thirty days of entry of judgment, to request a
 4 trial and shall specify the procedures for doing so.
 5 The notice of entry of judgment shall also notify the
 6 person, if an amount is assessed by the court for
 7 monetary assessments, fees, surcharges, or costs, that
 8 if the person does not request a trial within the time
 9 specified in this paragraph, the total amount assessed
 10 shall be paid within thirty days of entry of judgment.
 11 In the case of a traffic infraction, the notice of
 12 entry of judgment shall also inform the person that if
 13 the total amount is not paid within thirty days, the
 14 court shall take action as provided in section
 15 291D-_____.

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

19 (1) In the case of a traffic infraction, emergency period
 20 infraction, or fireworks infraction where the person
 21 requests a hearing at which the person will appear in



1 person to explain mitigating circumstances, the court
2 shall notify the person in writing of the date, time,
3 and place of hearing to explain mitigating
4 circumstances. The notice of hearing shall be mailed
5 to the address stated in the answer or, if none is
6 given, to the address stated on the notice of traffic
7 infraction, notice of emergency period infraction, or
8 notice of fireworks infraction. An electronic copy of
9 the notice of hearing may be sent to the electronic
10 mail address stated on the notice of infraction. The
11 notification also shall advise the person that, if the
12 person fails to appear at the hearing, the court shall
13 enter judgment by default in favor of the State, as of
14 the date of the scheduled hearing, and that the total
15 amount stated in the default judgment shall be paid
16 within thirty days of entry of default judgment; ~~and~~
17 provided that in the case of a traffic infraction, if
18 it is not paid, the court shall take action as
19 provided in section 291D- ; and

- 20 (2) If a written explanation is included with an answer
21 admitting commission of the infraction, the court



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

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

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



1 parking infractions, to the address stated in the answer, if
2 any, or the address at which the vehicle is registered. An
3 electronic copy of the notice of entry of default judgment may
4 be sent to the electronic mail address stated on the notice of
5 infraction. The notice of entry of default judgment shall
6 advise the person that the total amount specified in the default
7 judgment shall be paid within thirty days of entry of default
8 judgment and shall explain the procedure for setting aside a
9 default judgment. In the case of a traffic infraction, the
10 notice of entry of judgment shall also inform the person that if
11 the total amount is not paid within thirty days, the court shall
12 take action as provided in section 291D- . Judgment by
13 default entered for the State pursuant to this chapter may be
14 set aside pending final disposition of the traffic infraction,
15 emergency period infraction, or fireworks infraction upon
16 written application of the person and posting of an appearance
17 bond equal to the amount of the total amount specified in the
18 default judgment and any other assessment imposed pursuant to
19 section 291D-9. The application shall show good cause or
20 excusable neglect for the person's failure to take action
21 necessary to prevent entry of judgment by default. In the case



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



1 SECTION 9. Section 291D-8, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

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

13 SECTION 10. Section 291D-9, Hawaii Revised Statutes, is
14 amended by amending subsection (e) to read as follows:

15 "(e) Upon request of a person claiming inability to pay a
16 monetary assessment, the court may grant an extension of the
17 period in which the monetary assessment shall be paid or may
18 impose community service in lieu thereof. In the case of a
19 traffic infraction, if the assessment is not paid or the
20 community service is not performed on or before the date



1 established and the court has not extended the time, the court
2 shall take action as provided in section 291D- ."

3 SECTION 11. Section 291D-12, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§291D-12 Powers of the district court judge sitting in**
6 **the traffic, emergency period, and fireworks division.** (a) A
7 district court judge sitting in the traffic, emergency period,
8 and fireworks division and hearing cases pursuant to this
9 chapter shall have all the powers of a district court judge
10 under chapter 604, including the power to:

- 11 (1) Conduct traffic infraction, emergency period
- 12 infraction, and fireworks infraction hearings and
- 13 impose monetary assessments;
- 14 (2) Permit deferral of monetary assessment or impose
- 15 community service in lieu thereof;
- 16 (3) Dismiss a notice of traffic infraction, notice of
- 17 emergency period infraction, or notice of fireworks
- 18 infraction, with or without prejudice, or set aside a
- 19 judgment for the State;
- 20 (4) Order temporary driver's license suspension or
- 21 driver's license reinstatement;



- 1 (5) In the case of a traffic infraction, order the
2 director of finance not to issue or renew the driver's
3 license, or to register, renew the registration of, or
4 issue title to a motor vehicle, of any person who has
5 not paid a monetary assessment, has not performed
6 community service in lieu thereof, or has not
7 otherwise satisfied a judgment for the State entered
8 pursuant to this chapter;
- 9 [~~5~~] (6) Approve the issuance or renewal of a driver's
10 license or instruction permit pursuant to section 286-
11 109(c);
- 12 [~~6~~] (7) Issue penal summonses and bench warrants and
13 initiate contempt of court proceedings in proceedings
14 conducted pursuant to section 291D-13;
- 15 [~~7~~] (8) Issue penal summonses and bench warrants and
16 initiate failure to appear proceedings in proceedings
17 conducted pursuant to section 291D-5(d)(10); and
- 18 [~~8~~] (9) Exercise other powers the court finds necessary
19 and appropriate to carry out the purposes of this
20 chapter.



1 (b) A district court judge sitting in the traffic,
 2 emergency period, and fireworks division and hearing cases
 3 pursuant to this chapter shall not order the director of finance
 4 to withhold issuing or renewing the driver's license, or
 5 registering, renewing the registration of, or issuing the title
 6 to a motor vehicle, of any person who has not paid a monetary
 7 assessment, has not performed community service in lieu thereof,
 8 or has not otherwise satisfied a judgment for the State entered
 9 pursuant to this chapter[-]; provided that this subsection shall
 10 not apply in cases of a traffic infraction."

11 SECTION 12. Act 59, Session Laws of Hawaii 2020, is
 12 amended by amending section 9 to read as follows:

13 "SECTION 9. [~~Any person prevented from obtaining or~~
 14 ~~renewing a driver's license or motor vehicle registration solely~~
 15 ~~due to failure to pay any monetary assessment imposed under~~
 16 ~~chapter 291D, Hawaii Revised Statutes, may petition the court~~
 17 ~~for a driver's license or motor vehicle clearance. The court~~
 18 ~~shall grant any petition for a driver's license or motor vehicle~~
 19 ~~clearance filed in accordance with this section.] Repealed."~~

20 PART III



1 SECTION 13. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

4 SECTION 14. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 15. This Act shall take effect on July 1, 3000.



Report Title:

Motor Vehicles; Drivers; Unlicensed Drivers; Stops; Citations
Traffic; Public Safety; Impoundment; Driver's License; Motor
Vehicle Registration; Unpaid Monetary Obligations

Description:

Part I: Authorizes the impoundment of motor vehicles when certain traffic violations have been alleged or committed. Provides that if a law enforcement officer lawfully stops a motor vehicle and the operator is cited for driving without a valid license, the officer shall not permit the operator to resume the use of the motor vehicle. Requires the motor vehicle to be moved by a licensed driver or towed at the owner's expense. Provides that the cited operator is responsible for arranging the operator's transportation from the scene of the stop. Part II: Imposes a restriction 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, under certain circumstances. Repeals provisions that would have allowed any person prevented from obtaining or renewing a driver's license or motor vehicle registration solely due to failure to pay any monetary assessment to petition the court for a driver's license or motor vehicle clearance. Effective 7/1/3000. (HD1)

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