

A Bill for an Act Relating to the Statewide Traffic Code Concerning Penalties.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to decriminalize all traffic offenses, other than those of a serious nature, to the status of violations. Pursuant to section 706-605(2) of the Hawaii Penal Code, the court may suspend the imposition of sentence on a person who has been convicted of a violation or may sentence him to pay a fine authorized by part III of chapter 605 of the Code. Thus this Act will eliminate the criminal penalties of imprisonment, probation and restitution for all but serious traffic violations such as those concerning accidents involving death or personal injuries, false reports, or overtaking and passing a stopped school bus.

SECTION 2. Section 291C-161, Hawaii Revised Statutes, is amended to read:

**"Sec. 291C-161 Penalties.** (a) It is a violation for any person to violate any of the provisions of this chapter except as otherwise specified in subsection (c) of this section and unless the violation is by other law of this State declared to be a felony, misdemeanor, or petty misdemeanor.

(b) Except as provided in subsection (c) of this section, every person who violates any provision of this chapter for which another penalty is not provided, shall for a first conviction thereof be fined not more than \$100; for conviction of a second offense committed within one year after the date of the first offense, the person shall be fined not more than \$200; for conviction of a third or subsequent offense committed within one year after the date of the first offense, the person shall be fined not more than \$500 provided that upon a conviction for a violation of section 291C-12, the person shall be sentenced in accordance with section 291C-12.

(c) Every person who violates section 291C-13, 291C-14, 291C-18, 291C-37, 291C-43, 291C-44, 291C-45, 291C-46, 291C-47, 291C-48, 291C-50, 291C-51, 291C-65, 291C-72, 291C-73, 291C-74 or 291C-95 of this chapter shall for a first conviction thereof be fined not more than \$100 or imprisoned not more than ten days; for conviction of a second offense committed within one year after the date of the first offense, the person shall be fined not more than \$200 or imprisoned not more than twenty days, or by both fine and imprisonment; for conviction of a third or subsequent offense committed within one year after the date of the first offense, the person shall be fined not more than \$500 or imprisoned not more than six months, or by both fine and imprisonment.

(d) The courts may assess a sum not to exceed \$25 for the cost of issuing a penal summons upon any person who fails to appear at the place within the time specified in the citation issued to him for any traffic violation."

SECTION 3. Section 286-128, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**"Sec. 286-128 Point system for evaluation of operating records of all persons operating motor vehicles and for determination of their continuing**

**qualifications.** (a) There is established a point system for the evaluation of the operating records of all persons operating motor vehicles and for the determination of the continuing qualifications of such persons to operate motor vehicles. The system shall have as its basic element a graduated scale of points assigning relative values to the various violations of the traffic laws of the State and of traffic ordinances of its counties to be imposed by the district judge in accordance with the following schedule of minimum and maximum points:

- (1) Driving while under the influence of intoxicating liquor . . . . . 4 to 8
- (2) Reckless driving . . . . . 3 to 6
- (3) Driving while license suspended or revoked (includes court conviction as well as safety responsibility violations) . . . . . 3 to 6
- (4) Fraudulent use of license . . . . . 3 to 6
- (5) Excessive speeding (fifteen miles or more over the established speed limit) . . . . . 3 to 6
- (6) Leaving scene of accident . . . . . 3 to 6
- (7) Speeding (ten miles or more over the established speed limit) . . 1 to 4
- (8) Failure to report accident immediately . . . . . 1 to 4
- (9) Driving on left side of roadway . . . . . 0 to 4
- (10) Inattention to driving; negligent driving . . . . . 1 to 4
- (11) Permitting unlicensed driver to drive . . . . . 1 to 4
- (12) Following too closely . . . . . 1 to 3
- (13) Disregarding stop signs . . . . . 1 to 3
- (14) Right of way violations . . . . . 0 to 3
- (15) Disregarding traffic control signals . . . . . 1 to 3
- (16) Unlawful passing . . . . . 0 to 3
- (17) Unsafe changing of lanes . . . . . 0 to 3
- (18) Crossing solid or double lines . . . . . 0 to 3
- (19) Impeding traffic . . . . . 0 to 2
- (20) Improper turning . . . . . 0 to 2
- (21) Unsafe emergence from parked position . . . . . 0 to 2
- (22) Disregarding pavement markings . . . . . 0 to 2
- (23) Unsafe movements . . . . . 0 to 2
- (24) Stopping at medial openings . . . . . 1 to 2
- (25) Improper emergence from private driveway . . . . . 1 to 2
- (26) Unattended motor vehicle (if motor running) . . . . . 1 to 2
- (27) Violation of pedestrian's right of way . . . . . 1 to 2
- (28) Unsafe equipment on vehicle . . . . . 0 to 2
- (29) Faulty brakes . . . . . 0 to 2
- (30) Driving with improper lights . . . . . 0 to 2
- (31) Operating or carrying a passenger on a motor scooter or motorcycle without safety helmet or, in absence of windscreen or windshield, without eye and face protective devices or other protective devices required by the state-highway safety coordinator . . . . . 0 to 2
- (32) Driving after failure to renew license . . . . . 0 to 2
- (33) Operating a motorcycle or motor scooter while carrying as a passenger or permitting to ride thereon a person under the age of seven years . . . . . 0 to 2

- (34) Failure to report to the district court for a review of driving record or failure to attend required driving retraining course . . . . . 0 to 2

SECTION 4. Section 286-128, Hawaii Revised Statutes, is amended by amending subsection (m) to read as follows:

“(m) Upon determination and order by a district judge that a person has accumulated six points within a twelve-month period, the licensee shall report in person for a review of his driving record with the judge as directed by the judge if the licensee is present in court. If the licensee is not present in court when the district judge makes a determination and order that the licensee has accumulated six points within a twelve-month period and is directed to report in person for a review of his driving record, then the clerk of the district court shall notify the licensee in writing by certified mail, return receipt requested, to addressee only, that the licensee is directed to report in person, within fifteen days after receipt of the notice to report, for a review of his driving record with the judge. At the review, the judge may order a licensee who has accumulated six points within a twelve-month period to attend a course of instruction in driving retraining by a designated driver instructor or driver training school. Any person who fails to report in person for a review of his driving record with the judge as required by this subsection or who fails to attend a course of instruction in driver retraining pursuant to the order of the judge as required by this subsection shall be fined not more than \$100 or shall have his license suspended not more than one year, or both.”

SECTION 5. Section 286G-3, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 286G-3 Fines.** (a) A fine of \$1 shall be levied on a finding that a violation occurred of a statute or county ordinance relating to vehicles or their drivers or owners, except (1) offenses relating to stopping (when prohibited), standing, or parking; (2) offenses relating to registration; and (3) offenses by pedestrians.

(b) The fine levied by subsection (a) shall be paid for each violation in addition to any fine imposed by the court, and whether or not such fine is suspended.

(c) The amount of the fine shall be transmitted by the clerk of the court for deposit in the driver education and training fund.”

SECTION 6. Section 291-23, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 291-23 Penalty.** Whoever is convicted of violating any of the provisions of section 291-22 shall be fined not more than \$100.”

SECTION 7. Section 291-24, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 291-24 Motorcycles, noisy mufflers; penalty.** Every motorcycle moving under its own power on a public highway shall at all times be equipped with a muffler in constant operation to prevent any excessive or unusual noise and no such muffler or exhaust system shall be equipped with a cutout, bypass, or similar device. No person shall modify the exhaust system of a motorcycle in a manner

which will amplify or increase the noise emitted by the motor of such motorcycle above that emitted by the muffler originally installed on the motorcycle. A muffler is a device consisting of a series of chambers or baffle plates, or other mechanical design, for the purpose of receiving exhaust gas from the engine of the motorcycle, and effective in reducing noise.

Whoever violates this section shall be fined not more than \$100."

SECTION 8. Section 291C-22, Hawaii Revised Statutes, is repealed.

SECTION 9. Section 291C-23, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 291C-23 Obedience to police officers.** It shall be a petty misdemeanor for any person to wilfully fail or refuse to comply with any lawful order or direction of any police officer invested by law with authority to direct, control, or regulate traffic."

SECTION 10. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 11. This Act shall take effect upon its approval.

(Approved June 5, 1978.)

---

\*Edited accordingly.