

ACT 135

H.B. NO. 1538

A Bill for an Act Relating to Traffic Violations.

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

SECTION 1. Chapter 291, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . NONRESIDENT VIOLATOR COMPACT**

**§291- Enactment of compact.** The Nonresident Violator Compact is hereby enacted into law and entered into with all other jurisdictions legally joining herein in the form substantially as follows:

**NONRESIDENT VIOLATOR COMPACT**

**ARTICLE I. FINDINGS AND DECLARATION OF POLICY**

- (a) The party states find that:
  - (1) Under present procedures, a nonresident motorist who is arrested in a state other than the nonresident’s home state must either post collateral or bond to secure appearance for trial at some later date, or, if unable to post such collateral or bond, the nonresident is taken into custody until collateral or bond is posted or taken directly to court for arraignment to be held. The purpose of this requirement is to obviate the difficulty of ensuring compliance with the terms of a traffic citation by the nonresident who, if permitted to continue on the nonresident’s way after receiving such citation, could return to the nonresident’s home state and disregard with impunity the nonresident’s duty under the terms of the citation.
  - (2) A motorist receiving a traffic citation in the motorist’s home state is permitted, except for certain violations, to accept the citation from the

officer at the scene of the violation and to immediately continue on the motorist's way after being instructed to comply with the terms of the citation.

- (3) The practice described in paragraph (1) causes unnecessary inconvenience and, at times, causes a hardship for the motorist who is unable at the time to post collateral, furnish a bond, stand trial, or pay the fine and thus is compelled to remain in custody until some arrangement can be made.
- (4) The arrest of a nonresident motorist for a motor vehicle violation is presently consuming an undue amount of law enforcement time.
- (b) It is the policy of each of the party states to:
  - (1) Promote compliance with the laws, ordinances, and administrative rules relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles.
  - (2) Make the reciprocal recognition of the right of motorists of the party states to accept a citation without delay in all traffic violation cases in which such procedure is permitted whether the motorist is a resident or a nonresident of the state in which the arrest was made.
  - (3) Maximize effective utilization of law enforcement personnel and assist the court systems in the efficient disposition of traffic violations.
  - (4) Consider an operator who ignores or refuses a citation from a party state to be an unfit or irresponsible person to hold a license to drive.

## ARTICLE II. DEFINITIONS

As used in this compact:

(a) "Citation" means any citation, summons, ticket, or other document issued by a police officer for violation of a traffic law, ordinance, rule, or regulation which requires the motorist to respond.

(b) "Collateral" means any bond, cash, or other security deposited to secure an appearance for trial following the issuance by an arresting officer of a citation for a traffic violation.

(c) "Compact administrator" means the administrator of the traffic violations bureau of the judiciary.

(d) "Driver's license" means any license to operate a motor vehicle issued under the laws of the home state.

(e) "Home state" means the state that has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(f) "Issuing state" means the state in which the traffic citation was issued to the motorist.

(g) "Licensing authority" means the administrator of the traffic violations bureau of the judiciary.

(h) "Motorist" means the driver of a motor vehicle operating in a party state other than the home state.

(i) "Nonresident" means a driver who holds a license issued by a party state other than the state in which the citation was issued.

(j) "Personal recognizance" means a signed agreement by a nonresident that the nonresident will comply with the terms of the citation issued to the nonresident.

(k) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, Provinces of Canada, or other countries.

ARTICLE III. PROCEDURE FOR ISSUING STATE

(a) An officer making an arrest or citing a nonresident for a traffic violation shall issue a citation as appropriate to all motorists who are residents of the party states and shall not, subject to the exceptions noted in subsection (b) of this Article, require such motorist to post collateral or bond to secure appearance for trial, but may accept such motorist's personal recognizance that the motorist will comply with the terms of the citation.

(b) No motorist shall be entitled to receive a citation under the terms of subsection (a) of this Article, nor shall any police officer issue such citation under the same terms, in the event the offense for which the citation is issued shall be one of the following:

- (1) An offense for which the issuance of a citation in lieu of a hearing or the posting of collateral, bail, or bond is prohibited by law or court policy; or
- (2) An offense, for which the revocation of the motorist's license would be required upon conviction or forfeiture of collateral.

(c) Upon the failure of any nonresident to comply with the terms of a traffic citation, the arresting officer or other appropriate official may obtain a warrant for arrest or summons for appearance in court and shall report the failure to the licensing authority of the state in which the arrest was made or the citation for a traffic violation was issued. If the State of Hawaii is the issuing state, the arresting officer or other appropriate official shall report this failure to the compact administrator. The report shall clearly identify the person arrested or cited; describe the violation, specifying the section of the traffic law, ordinance, rule, or regulation violated; indicate the location of the offense; and describe the vehicle, and its license number. The report shall be signed by the arresting officer or other appropriate official.

ARTICLE IV. PROCEDURE FOR HOME STATE

(a) Upon receipt of the report as described in Article III, the licensing authority of the state in which the arrest was made or a citation for a traffic violation was issued shall transmit an official copy of the record of the report to the licensing authority of the home state. If the State of Hawaii is the home state, the licensing authority of the state in which the arrest was made or a citation for a traffic violation was issued shall transmit an official copy of the record of the report to the compact administrator. If the State of Hawaii is the issuing state, the compact administrator shall transmit an official copy of the record of the report to the licensing authority of the home state.

(b) Upon receipt of a certification of noncompliance from the state in which the arrest was made or a citation for a traffic violation was issued, the licensing authority of the home state shall notify the motorist and immediately initiate license suspension proceedings against such motorist. The order of suspension shall indicate the reason for the order and shall notify the motorist that his license shall remain suspended until satisfactory evidence has been furnished to the authority issuing such order of compliance with the terms of the citation.

(c) A copy of any suspension order issued under this Article shall be furnished to the licensing authority of the state in which the arrest was made or a citation for a traffic violation was issued. If the State of Hawaii is the issuing state, a copy of any suspension order issued under this Article shall be furnished to the compact administrator.

(d) If the laws of a home state do not provide for offenses or violations denominated or described in precisely the words employed in the state from which a certification of noncompliance is received, the home state shall construe the

denomination and descriptions appearing in the laws of such state as being applicable to and identifying those offenses or violations of a substantially similar nature.

#### ARTICLE V. APPLICABILITY OF OTHER LAWS

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party state to apply any of its other laws relating to the licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a nonparty state.

#### ARTICLE VI. COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION

(a) The motor vehicle administrator of each party state shall be the administrator of this compact for their state. For the State of Hawaii, the administrator of the traffic violations bureau of the judiciary shall be the administrator of this compact. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(b) The administrator of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.

#### ARTICLE VII. ENTRY INTO FORCE AND WITHDRAWAL

(a) This compact shall enter into force and become effective as to any state when it has enacted the same into law.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction prior to the withdrawal.

#### ARTICLE VIII. EXCEPTIONS

The provisions of this compact shall not apply to parking violations, highway weight limit violations, and violations of law governing the transportation of hazardous materials.

#### ARTICLE IX. CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters."

SECTION 2. Section 287-3, Hawaii Revised Statutes, is amended to read as follows:

“§287-3 **Furnishing of operating records.** (a) The traffic violations bureau of the district courts shall upon request furnish any person a certified abstract of the bureau’s record, if any, of any person relating to all alleged moving violations, as well as any convictions resulting therefrom, arising from the operation of a motor vehicle and any administrative license revocation pursuant to chapter 286, part XIV. The traffic violations bureau may collect a fee, to be a realization of the general fund, of not in excess of \$2 for any such certificate.

(b) Notwithstanding any provision to the contrary, all alleged moving violations as well as any convictions resulting therefrom or any administrative license suspension pursuant to Part Nonresident Violator Compact shall not be included in a certified abstract of the bureau’s record.”

SECTION 3. Section 287-20, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Whenever a driver’s license has been suspended or revoked pursuant to part XIV of chapter 286, or upon a conviction of any offense pursuant to law, or in the case of minors, suspended or revoked pursuant to part V of chapter 571, the license shall not at any time thereafter be issued to the person whose license has been suspended or revoked, nor shall the person thereafter operate a motor vehicle, unless and until the person has furnished and thereafter maintains proof of financial responsibility[.]; provided that this section shall not apply to any conviction of a moving violation or any administrative license suspension pursuant to Part Nonresident Violator Compact. Whenever by reason of a conviction of, or adjudication under part V of chapter 571 by reason of, any of the offenses listed in this section, under the laws of the State or ordinances of any political subdivision, a court of competent jurisdiction has discretion to revoke or suspend a driver’s license but does not revoke or suspend the license, the administrator shall nevertheless after the expiration of thirty days from the date of conviction or adjudication suspend the license and shall keep the same suspended, and the person so convicted or adjudicated shall not thereafter operate a motor vehicle, unless and until the person so convicted or adjudicated furnishes and thereafter maintains proof of financial responsibility. The offenses referred to are:

- (1) Reckless or inattentive driving, driving while under the influence of intoxicating liquor, driving while under the influence of drugs, and driving while that person’s license has been suspended or revoked;
- (2) Conviction or adjudication under part V of chapter 571 by reason of any moving violation offense involving a motor vehicle if the motor vehicle is in any manner involved in an accident in which any person is killed or injured, or in which damage to property results to an apparent extent in excess of \$1,000 and there are reasonable grounds for the administrator to believe that the defendant is at fault; and
- (3) Failure to have an effective no-fault insurance policy.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 21, 1993.)