

**ACT 214**

S.B. NO. 154

A Bill for an Act Relating to Traffic Violations Enforcement.

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

SECTION 1. The purpose of this Act is to improve the system by which traffic offenses presently are being processed in order to dispose expeditiously of these cases and thereby achieve efficient and effective use of limited judicial and law enforcement resources. This Act requires the judiciary to implement a program beginning on July 1, 1994, whereby the traffic offenses listed within this Act are decriminalized and drivers are offered opportunities to either pay or contest their fines in less confrontational settings. Toward that end, the judiciary is directed to prepare and submit to the legislature an implementation plan for this Act before January 1, 1994.

Currently, many traffic offenses, even minor ones, are technically classified as crimes. For example, riding a bicycle other than on a permanent and regular seat in violation of section 291C-143, Hawaii Revised Statutes, is a misdemeanor

punishable by one year in prison, a \$2,000 fine, or both. These offenses, and many other civil traffic offenses that are punishable only by a fine and traffic "points," often require the driver to appear in court one or more times. However, the vast majority of offenders eventually are required only to pay a fine, something that could be done much more expeditiously by mail.

As a result, the process of disposing of these offenses costs drivers a large amount of time and taxpayers a larger amount of money. Perhaps more importantly, disposition of these cases consumes important judicial and prosecutorial resources that should be expended on more serious cases and keeps police officers in court when they should be on patrol providing the protection that the public expects and deserves.

Accordingly, this Act proposes to decriminalize all but the most serious traffic offenses by making violators subject only to civil penalties such as fines and traffic points. This will permit those who do not wish to contest the citation to simply pay a fine by mail with no further action. Those who wish to admit the violation but want to explain the circumstances as well as those who wish to contest the citation will be afforded a hearing for those purposes. When issuing a citation for a moving or equipment violation, the officer will enter on the citation the applicable fine, according to a standard schedule established by the district court, and a court appearance date. On receipt of the citation, the driver will be required to choose one of three options within fifteen days: (1) pay the fine indicated on the citation; (2) admit the infraction and appear for a hearing on the date indicated to explain the circumstances prior to the imposition of the fine and traffic points; or (3) deny the infraction and appear at a hearing on the date indicated to dispute the citation.

If the driver chooses to admit the violation and submit payment, traffic points will be assessed according to the schedule. If assessment of points will cause the driver to equal or exceed a total of twelve points and thereby require the suspension of the driver's license, payment will be rejected and the case will be scheduled for trial. If not, payment will be accepted, points assessed, and the matter closed.

If the driver chooses to admit the violation but desires a hearing to explain the circumstances, the driver will be afforded a hearing limited to an explanation seeking mitigation of the fine and points. The driver will be allowed to explain the circumstances of the violation and request leniency but will not be allowed to challenge the citation itself. If assessment of points will cause the driver to equal or exceed a total of twelve, thereby requiring suspension of the driver's license, the driver's admission will be rejected and the case will be scheduled for trial. If not, the court will assess the appropriate fine and traffic points, if any, and the matter closed.

If the driver chooses to contest the citation, the driver will be afforded a hearing for that purpose. Since a prosecutor will not be present and there will be no possibility of a prison term, the driver will not need to retain counsel in most cases. Instead, the citation and the description of the violation contained therein will be admitted as evidence of the violation, the driver may explain the driver's side of the case, and usually no witnesses will be required. If the driver is dissatisfied with the outcome of the hearing, the driver may request a regular district court trial, pursuant to the Hawaii Rules of Penal Procedure, where a prosecutor will present evidence and the infraction must be proved beyond a reasonable doubt.

If a driver fails to respond to the citation within fifteen days, judgment by default will be entered for the State, points will be assessed, and the driver will be notified. If the driver does not pay the fine within an additional thirty days or otherwise take action to set aside the default, the county director of finance will be

notified, and the driver will not be able to renew his or her driver's license or register or acquire a motor vehicle until the matter is settled in court.

While recognizing the need to expedite disposition of traffic infractions through an informal process, the legislature also recognizes that an informal system may provide a greater opportunity to "fix" tickets. Therefore, this Act also increases the penalty for "ticket fixing" from a misdemeanor to a class C felony and provides for a minimum fine of \$1,000 and a maximum fine of \$10,000.

The legislature finds that these steps are necessary to ensure that judicial and law enforcement resources are concentrated on serious criminal offenders.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### **"CHAPTER ADJUDICATION OF TRAFFIC INFRACTIONS**

§ -1 **Purpose.** Act 222, Session Laws of Hawaii 1978, began the process of decriminalizing certain traffic offenses, not of a serious nature, to the status of violations. In response to a request by the legislature, the judiciary prepared a report in 1987 that recommended, among other things, further decriminalization of traffic offenses, elimination of most traffic arraignments, disposition of uncontested violations by mail, and informal hearings where the violation or the proposed penalty is questioned. The legislature finds that further decriminalization of certain traffic offenses and streamlining of the handling of those traffic cases will achieve a more expeditious system for the judicial processing of traffic infractions. The system of processing traffic infractions established by this chapter will:

- (1) Eliminate the long and tedious arraignment proceeding for a majority of traffic matters;
- (2) Facilitate and encourage the resolution of many traffic infractions through the payment of a monetary assessment;
- (3) Speed the disposition of contested cases through a hearing, similar to small claims proceedings, in which the rules of evidence will not apply and the court will consider as evidence the notice of traffic infraction, applicable police reports, or other written statements by the police officer who issued the notice, any other relevant written material, and any evidence or statements by the person contesting the notice of traffic infraction;
- (4) Dispense in most cases with the need for witnesses, including law enforcement officers, to be present and for the participation of the prosecuting attorney;
- (5) Allow judicial, prosecutorial, and law enforcement resources to be used more efficiently and effectively; and
- (6) Save the taxpayers money and reduce their frustration with the judicial system by simplifying the traffic court process.

The legislature further finds that this chapter will not require expansion of the current traffic division of the district courts, but will achieve greater efficiency through more effective use of existing resources of the district courts.

§ -2 **Definitions.** As used in this chapter:

"Hearing" means a proceeding conducted by the district court pursuant to section -8 at which a driver either contests the notice of traffic infraction or admits to the traffic infraction but offers an explanation to mitigate the monetary assessment or traffic points, or both, imposed.

“Traffic infraction” means all violations of statutes, ordinances, or rules relating to traffic movement and control, including parking, standing, equipment, and pedestrian offenses, for which the prescribed penalties do not include imprisonment.

“Trial” means a trial conducted by the district court pursuant to the Hawaii Rules of Penal Procedure and rules of the district court.

**§ -3 Applicability.** (a) Notwithstanding any other provision of law to the contrary, all traffic infractions shall be adjudicated pursuant to this chapter, except as provided in subsection (b). This chapter shall be applied uniformly throughout the State and in all counties. Penal sanctions except fines shall not apply to a violation of a county ordinance that would constitute a traffic infraction under this chapter. Traffic infractions shall not be classified as criminal offenses.

(b) Traffic infractions that involve an accident resulting in personal injury or property damage or are committed in the same course of conduct as a criminal offense for which the offender is arrested or charged shall not be adjudicated pursuant to this chapter, but shall be adjudicated by the appropriate district or circuit court of the circuit in which the traffic infraction was committed, whichever has jurisdiction pursuant to the applicable statute or rules of court. In no event shall section 701-109 preclude prosecution for a criminal offense where a traffic infraction committed in the same course of conduct has been adjudicated pursuant to this chapter.

**§ -4 Venue and jurisdiction.** (a) All violations of state law, ordinances, or rules designated as traffic infractions in this chapter shall be adjudicated in the district and circuit where the alleged infraction occurred, except as otherwise provided by law.

(b) Except as otherwise provided by law, jurisdiction is in the district court of the circuit where the alleged traffic infraction occurred. Except as otherwise provided in this chapter, district court judges shall adjudicate traffic infractions.

**§ -5 Notice of traffic infraction; form; determination final unless contested.** (a) The notice of traffic infraction shall include the complaint and summons for the purposes of this chapter. Whenever a notice of traffic infraction is issued to the driver of a motor vehicle, the driver’s signature, driver’s license number, and current address shall be affixed to the notice. If the driver refuses to sign the notice, the officer shall record this refusal on the notice and issue the notice to the driver. Individuals to whom a notice of traffic infraction is issued under this chapter need not be arraigned before the court, unless required by rule of the supreme court.

(b) The form for the notice of traffic infraction shall be prescribed by rules of the district court which shall be uniform throughout the State. Except in the case of traffic infractions involving parking, the notice shall include the following:

- (1) A statement of the specific traffic infraction, including a brief statement of facts, for which the notice was issued;
- (2) A statement of the monetary assessment, established for the particular traffic infraction pursuant to section -9, to be paid by the driver and the range of points that may be assessed by the court pursuant to section 286-128, both of which shall be uniform throughout the State;
- (3) A statement of the options provided in section -6(b) for answering the notice and the procedures necessary to exercise the options;
- (4) A statement that the person to whom the notice is issued must answer, choosing one of the options specified in section -6(b), within fifteen days;

- (5) A statement that failure to answer the notice of traffic infraction within fifteen days shall result in the entry of judgment by default for the State and a late penalty assessed and, if the driver fails to pay the monetary assessment within an additional thirty days or otherwise take action to set aside the default, notice to the director of finance of the appropriate county that the person to whom the notice was issued shall not be permitted to renew or obtain a driver's license or, where the notice was issued to a motor vehicle, the registered owner will not be permitted to register, renew the registration of, or transfer title to the motor vehicle until the traffic infraction is finally disposed of pursuant to this chapter;
  - (6) A statement that if, after receipt of the answer, the court determines that the assessment of points for the traffic infraction will cause the number of points on the person's traffic abstract to equal or exceed twelve, the matter will be scheduled for trial and that, if the person fails to appear for trial, a penal summons will be issued to bring the person before the court and the court will take action as provided in section -10;
  - (7) A statement that, at a hearing to contest the notice of traffic infraction conducted pursuant to section -8 or in consideration of a written statement contesting the notice of traffic infraction, no officer will be present unless the driver timely requests the court to have the officer present. The standard of proof to be applied by the court is whether a preponderance of the evidence proves that the specified traffic infraction was committed;
  - (8) A statement that, at a hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the infraction or in consideration of a written request for mitigation, the person will be considered to have committed the traffic infraction;
  - (9) A space in which the driver's signature, current address, and driver's license number may be affixed; and
  - (10) The date, time, and place at which the driver must appear in court if the driver chooses to go to hearing.
- (c) In the case of traffic infractions involving parking, the notice shall be affixed conspicuously to the vehicle as provided in section 291C-167 and shall include the information required by paragraphs (1) to (8) of subsection (b).

§ -6 **Answer required.** (a) A person who receives a notice of traffic infraction shall answer the notice within fifteen days of the date of the notice. There shall be included with the notice of traffic infraction a preaddressed, postage paid envelope directed to the traffic violations bureau of the applicable district court.

- (b) In an answer to a notice of traffic infraction, a person shall either:
  - (1) Admit the commission of the infraction by completing the appropriate portion of the notice of traffic infraction and submitting it, either by mail or in person, to the authority specified on the notice together with payment, except as provided in section -9(d), in the amount of the monetary assessment stated on the notice of traffic infraction. Payment by mail shall be in the form of a check, money order, or by approved credit card. Payment in person shall be in the form of United States currency, check, money order, or by approved credit card;
  - (2) Deny the commission of the infraction by completing the appropriate portion of the notice of traffic infraction and submitting it, either by mail or in person, to the authority specified on the notice. In lieu of a hearing, the person may submit a written statement of grounds on

which the person contests the notice of traffic infraction, which shall be considered by the court as a statement given in court pursuant to section -8(a); or

- (3) Admit the commission of the infraction and request a hearing to explain circumstances mitigating the infraction by completing the appropriate portion of the notice of traffic infraction and submitting it, either by mail or in person, to the authority specified on the notice. In lieu of a hearing, the person may submit a written explanation of the mitigating circumstances, which shall be considered by the court as a statement given in court pursuant to section -8(b).

(c) When answering the notice of traffic infraction, the person shall affix the person's signature to the answer and shall state the address at which the person will accept future mailings from the court. No other response shall constitute an answer for purposes of this chapter.

**§ -7 Court action after answer or failure to answer.** (a) When an admitting answer is received, the court shall review the driver's abstract and determine the number of points, if any, to be assessed pursuant to section 286-128. If the points to be assessed by the court do not cause the number of points on the person's abstract to equal or exceed a total of twelve, the court shall enter judgment in favor of the State in the amount of the monetary assessment specified in the notice of traffic infraction and assess the determined number of points. If the monetary assessment is not submitted with the answer, the court shall take action as provided in section -10. If the points to be assessed by the court cause the number of points on the person's abstract to equal or exceed a total of twelve, the court shall reject the admission and refund the monetary assessment and schedule the matter for trial. Also, the court shall notify the person of the date, time, and place of the trial and inform the person that if the person fails to appear for trial, a penal summons shall be issued to bring the person before the court, and that the court shall take action as provided in section -10.

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

- (1) In the case of a traffic infraction that does not involve parking, the court shall determine whether the assessment of points for the traffic infraction will cause the number of points on the person's traffic abstract to equal or exceed a total of twelve. If the assessment of points for the traffic infraction will cause the number of points on the person's abstract to equal or exceed a total of twelve, the court shall reject the request for a hearing, schedule the matter for trial, and notify the person in writing of the date, time, and place of the trial. If the assessment of points for the traffic infraction will not cause the number of points on the person's abstract to equal or exceed a total of twelve, the court shall proceed as provided in section -8(a).
- (2) In the case of a traffic infraction that involves parking, the court shall notify the person or registered owner or owners in writing of the date, time, and place of hearing to contest the notice of traffic infraction. The notice of hearing shall be sent within thirty days from the post-marked date of the answer to the address stated in the denying answer or, if none is given, to the address at which the vehicle is registered. The notification also shall advise the person that, if the person fails to appear at the hearing, the court shall enter judgment by default in favor of the State, as of the date of the scheduled hearing, that the monetary assessment must be paid within thirty days from notice of default, and, if it is not paid, that the court will take action as provided in section -10.

- (3) When a denying answer is accompanied by a written statement of the grounds on which the person contests the notice of the traffic infraction, the court shall determine whether the assessment of points for the traffic infraction will cause the number of points on the person's traffic abstract to equal or exceed a total of twelve. If the assessment of points for the traffic infraction will cause the number of points on the person's abstract to equal or exceed a total of twelve, the court shall reject the denial and request for a decision based on the written statement, schedule the matter for trial, and notify the person in writing of the date, time, and place of the trial. If the assessment of points for the traffic infraction will not cause the number of points on the person's abstract to equal or exceed a total of twelve, the court shall proceed as provided in section 8(a) and shall notify the person of its decision, including the amount of the monetary assessment or points, if any, by mailing it within thirty days of the post-marked date of the answer to the address provided by the person in the answer, or if none is given to the address given when the notice of traffic infraction was issued or, in the case of parking violations, to the address stated in the denying answer or, if none is given, to the address at which the vehicle is registered. The decision also shall advise the person, if it is determined that the infraction was committed, that the person has the right, within thirty days, to request a trial and shall specify the procedures for doing so. The notice of decision shall also notify the person, if a monetary assessment is assessed by the court, that if the person does not request a trial, the assessment shall be paid within thirty days. The notice shall warn the person that if the assessment is not paid within thirty days, the court shall take action as provided in section 10.

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

- (1) In the case of a traffic infraction which does not involve parking, the court shall determine whether the assessment of points for the traffic infraction will cause the number of points on the person's traffic abstract to equal or exceed a total of twelve. If the assessment of points for the traffic infraction will cause the number of points on the person's abstract to equal or exceed a total of twelve, the court shall reject the admission and request to explain mitigating circumstances and notify the person in writing of the date, time, and place of the trial. If the assessment of points for the traffic infraction will not cause the number of points on the person's abstract to equal or exceed a total of twelve, the court shall proceed as provided in section 8(b).
- (2) In case of a traffic infraction which involves parking, the court shall notify the person in writing of the date, time, and place of the hearing. The notice shall be sent, within thirty days from the postmarked date of the answer, to the address at which the vehicle is registered. The notice of hearing on mitigating circumstances shall advise the person that the court will enter judgment for the State and the hearing will be limited to an explanation of the mitigating circumstances. The notice of hearing also shall state that if the person fails to appear at the hearing, the monetary assessment must be paid within thirty days of the scheduled hearing. The notice of hearing shall warn the person that if the monetary assessment is not paid within thirty days, the court shall take action as provided in section 10.

(3) If a written explanation is included with an answer admitting commission of the infraction, the court shall determine whether the assessment of points for the traffic infraction will cause the number of points on the person's traffic abstract to equal or exceed a total of twelve. If the assessment of points for the traffic infraction will cause the number of points on the person's abstract to equal or exceed a total of twelve, the court shall reject the denial and request for a decision based on the written statement, schedule the matter for trial, and notify the person in writing of the date, time, and place of the trial. If the assessment of points for the traffic infraction will not cause the number of points on the person's abstract to equal or exceed a total of twelve, the court shall enter judgment for the State and, after reviewing the explanation, determine the amount of the monetary assessment and points to be assessed, if any. The court shall then notify the person of the monetary assessment to be paid and the points assessed for the infraction, if any. There shall be no appeal from the order. If the court assesses a monetary assessment, the court shall also notify the person that the assessment shall be paid within thirty days of the postmarked date of the decision. The notice shall also warn the person that if the monetary assessment is not paid within thirty days, the court shall take action as provided in section -10.

(d) If the person fails to answer within fifteen days of issuance of the notice of traffic infraction, the court shall take action as provided in subsection (e).

(e) Whenever judgment by default in favor of the State is entered, the court shall mail a notice of entry of judgment of default to the address provided by the person when the notice of traffic infraction was issued or, in the case of parking violations, to the address stated in the answer, if any, or the address at which the vehicle is registered. The notice shall advise the person that the monetary assessment shall be paid within thirty days and shall explain the procedure for setting aside a default judgment. The notice shall also warn the person that if the monetary assessment is not paid within thirty days, the court shall take action as provided in section -10. Judgment by default for the State entered pursuant to this chapter may be set aside pending final disposition of the traffic infraction upon written application of the person and posting of an appearance bond equal to the amount of the monetary assessment and any other assessment imposed pursuant to section

-9. The application shall show good cause or excusable neglect for the person's failure to take action necessary to prevent entry of judgment by default. Upon receipt of the application, the court shall take action to remove the restriction placed on the person's driver's license or the motor vehicle's registration and title imposed pursuant to section -10. Thereafter, the court shall determine whether good cause or excusable neglect exists for the person's failure to take action necessary to prevent entry of judgment by default. If so, the notice of traffic infraction shall be disposed of pursuant to this chapter. If not, the appearance bond shall be forfeited and the notice of traffic infraction shall be finally disposed. In either case, the court shall, within thirty days, determine the existence of good cause or excusable neglect and notify the person of its decision in writing.

§ -8 Hearings. (a) In proceedings to contest the issuance of a notice of traffic infractions:

(1) In lieu of the personal appearance by the officer who issued the notice of traffic infraction, the court shall consider the notice of traffic infraction and any other written report made by the officer together with any oral or written statement by the driver, or in the case of



traffic infractions involving parking, the operator or registered owner of the motor vehicle;

- (2) The court may compel by subpoena the attendance of the officer who issued the notice and other witnesses from whom it may wish to hear;
  - (3) The standard of proof to be applied by the court shall be whether a preponderance of the evidence proves that the traffic infraction was committed; and
  - (4) After due consideration of the evidence and arguments, if any, the court shall determine whether commission of the traffic infraction has been established. Where the commission of the traffic infraction has not been established, an order dismissing the notice of traffic infraction with prejudice shall be entered in the records. Where it has been established that the traffic infraction was committed, the court shall enter judgment for the State and may assess a monetary assessment pursuant to section -9, and points, if applicable, pursuant to section 286-128. The court also shall inform the person of the right to request, within thirty days, a trial pursuant to section -13. If the person requests a trial at the hearing, the court shall provide the person with the trial date forthwith. If trial is elected, arraignment and plea shall be held at the time of trial.
- (b) In proceedings to explain mitigating circumstances:
- (1) The procedure shall be informal and shall be limited to the issue of mitigating circumstances. A person who requests to explain the circumstances shall not be permitted to contest the issuance of the notice of traffic infraction;
  - (2) After the court has received the explanation, the court shall enter judgment for the State and may assess a monetary assessment, pursuant to section -9, and points, if applicable, pursuant to section 286-128; and
  - (3) The court after receiving the explanation may vacate the admission and dismiss the notice of traffic infraction with prejudice where the explanation establishes that the infraction was not committed; and
  - (4) There shall be no appeal from the order.

(c) If a person for whom a hearing has been scheduled to contest the notice of traffic infraction or a hearing to explain mitigating circumstances fails to appear at the hearing, the court shall enter judgment by default for the State and take action as provided in section -7(e). If the monetary assessment is not paid within thirty days, the court shall take action as provided in section -10.

**§ -9 Monetary assessments.** (a) A person found to have committed a traffic infraction shall be assessed a monetary assessment not to exceed the maximum fine specified in the statute defining the traffic infraction.

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

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

- (1) Failure to pay a monetary assessment by the scheduled date of payment; or
- (2) The cost of service of a penal summons issued pursuant to this chapter.

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

**§ -10 Restriction on driver's license and motor vehicle registration.**

(a) When the person issued a notice of traffic infraction not involving parking fails to pay a monetary assessment that has been ordered, the court shall cause an entry to be made in the driver's license record so as to prevent the person whose assessment is outstanding from acquiring or renewing the person's driver's license until the outstanding assessment is paid or the notice of traffic infraction is otherwise disposed of pursuant to this chapter.

(b) In all cases where the registered owner of a motor vehicle to which a notice of traffic infraction has been issued fails to pay any monetary assessments that have been ordered, the court shall cause an entry to be made in the motor vehicle's record so as to prevent issuance or renewal of the motor vehicle's certificate of registration and transfer of title to the motor vehicle until the outstanding assessment is paid or the notice of traffic infraction is otherwise disposed of pursuant to this chapter.

**§ -11 Time computation.** In computing any period of time prescribed or allowed by this chapter, the day of the act, event, or default from which the period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or legal holiday in which event the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday. Intermediate Saturdays, Sundays, and legal holidays shall be included. Whenever an act required to be performed under this chapter may be accomplished by mail, the act shall be deemed to have been performed on the date of the postmark on the mailed article.

**§ -12 Powers of the district court judge sitting in the traffic division.**

A district court judge sitting in the traffic division and hearing cases pursuant to this chapter shall have all the powers of a district court judge under chapter 604, including the following powers:

- (1) To conduct traffic infraction hearings and to impose monetary assessments;
- (2) To permit deferral of monetary assessment or impose community service in lieu thereof;
- (3) To impose or to suspend the imposition of traffic violation points;
- (4) To dismiss a notice of traffic infraction or to set aside a judgment for the State;
- (5) To order temporary driver's license suspension or license reinstatement;
- (6) To order the director of finance not to issue or renew the driver's license or to register, renew the registration of, or issue title to a motor vehicle of any person who has not paid a monetary assessment or performed community service in lieu thereof;

- (7) To issue penal summonses and bench warrants and initiate contempt of court proceedings in proceedings conducted pursuant to section -13; and
- (8) To exercise other powers the court finds necessary and appropriate to carry out the purposes of this chapter.

§ -13 **Trial.** (a) If an admission made pursuant to section -6 or a determination made pursuant to section -8 that a person committed a traffic infraction would cause the number of traffic points on the person's abstract to equal or exceed a total of twelve, the notice of traffic infraction shall be adjudicated in a trial pursuant to the Hawaii Rules of Penal Procedure and rules of the district court.

(b) If, after proceedings to contest the notice of traffic infraction, a determination has been made that a person committed the traffic infraction, the person may request, within thirty days of the determination, a trial pursuant to the rules of penal procedure and rules of the district court, provided that arraignment and plea for such trial shall be held at the time of trial. If the person requests a trial at the conclusion of the proceedings to contest the notice of traffic infraction, the court shall provide the person with the trial date forthwith. Except as provided in subsection (a), a notice of traffic infraction shall not be adjudicated pursuant to this section until proceedings pursuant to section -8 have been completed.

(c) The result of the final determination or any admission made pursuant to -6 shall not be admissible in any trial conducted pursuant to -13.

§ -14 **Rules** (a) The supreme court may adopt rules of procedure for the conduct of all proceedings pursuant to this chapter.

(b) Chapter 626 shall not apply in proceedings conducted pursuant to this chapter, except for the rules governing privileged communications, and proceedings conducted under -13.

(c) Notwithstanding section 604-17, while the court is sitting in any matter pursuant to this chapter, the court shall not preserve the testimony or proceedings, except proceedings conducted pursuant to -13.

(d) The prosecuting attorney shall not participate in proceedings conducted pursuant to this chapter, except proceedings pursuant to section -13.

(e) Chapter 91 shall not apply in proceedings before the court."

SECTION 3. Section 286-25, Hawaii Revised Statutes, is amended to read as follows:

**"§286-25 Operation of a vehicle without a certificate of inspection.** Whoever operates, permits the operation of, causes to be operated, or parks any vehicle on a public highway without a current official certificate of inspection, issued under section 286-26, shall be fined not more than \$100 [or imprisoned not more than thirty days or both]."

SECTION 4. Section 286-61, Hawaii Revised Statutes, is amended to read as follows:

**"§286-61 Penalty.** Any person who violates [any of the provisions of] sections 286-41, 286-42, 286-44.5 to 286-56.5, and 286-58 to 286-60 shall be fined not less than \$5 nor more than \$1,000 [or imprisoned not more than one year, or both]; provided that any corporate owner of a motor vehicle who fails to register a motor vehicle as required by section 286-41(a) following a transfer of the vehicle between counties shall be fined \$1,000 for each violation. Any person who violates

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section 286-43, 286-44, or 286-57 shall be fined not less than \$5 and not more than \$1,000 or imprisoned not more than one year, or both.

SECTION 5. Section 286-82, Hawaii Revised Statutes, is amended to read as follows:

**“§286-82 Penalty.** Whoever violates this part shall be fined not more than \$1,000 [or imprisoned not more than one year, or both].”

SECTION 6. Section 286-128, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) Computation of points. In computing the total number of points charged to any person after a particular violation, those accrued as a result of violations [which] that have occurred during the twelve months’ period including and immediately preceding the last violation shall be counted at their full value; those accrued from twelve to twenty-four months preceding the last violation shall be counted at one-half their established value; and those resulting from violations more than twenty-four months prior to the last violation shall not be counted. If no violation has been charged against a person during the twenty-four month period, a total of six favorable points will be credited to the person’s account, which may be used to offset the points chargeable on accounts of violations. [Computation of points shall begin with offenses occurring only after May 25, 1961.] In the event that a district judge subsequent to the bail forfeiture does hear the case, the district judge may set aside the points resulting from the bail forfeiture and designate the points the district judge deems necessary; provided that no licensee shall twice be assigned points for the same traffic violation. The method of computing and crediting points under this subsection shall not apply if, at the time of computation, the person as to whom the computation is being made has outstanding any traffic infraction other than the one for which the computation is being made.”

SECTION 7. Section 286-136, Hawaii Revised Statutes, is amended to read as follows:

**“§286-136 Penalty.** Whoever violates [this part] section 286-102, 286-122, 286-130, 286-131, 286-132, 286-133, or 286-134 shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Whoever violates any other section in this part shall be fined not more than \$1,000.”

SECTION 8. Section 286-138, Hawaii Revised Statutes, is amended to read as follows:

**“§286-138 Prohibiting “fixing” of tickets and providing penalties therefor; nolle prosequi by prosecuting attorney only by motion and approval of court.** (a) It shall be unlawful for any person, including any government-official or employee of the State or county, to “fix”, “void”, change, modify, adjust, tamper with, or otherwise dispose of any traffic citation, notice, or summons. Nothing in this subsection shall be construed to affect the powers of the judges of the several courts in the exercise of their judicial functions. Any person who intentionally or knowingly violates this subsection shall be [fined not more than \$1,000, or imprisoned for not more than one year, or both.] guilty of a class C felony; except that the person shall be fined not less than \$1,000 and not more than \$10,000. Any government official or employee of this State or any county who

violates [any of the provisions hereof] this subsection shall be summarily discharged from the official's or employee's office or employment.

(b) No nolle prosequi shall be entered in any case involving a violation of the traffic laws or ordinances of the State or of the several counties and no [such] case or any charge arising therefrom shall be stricken, amended, or reduced, except by consent of the court upon written motion of the prosecuting attorney stating the reasons therefor. The court may deny the motion if it deems the reasons insufficient."

SECTION 9. Section 286-210, Hawaii Revised Statutes, is amended to read as follows:

**"[§286-210] Operation of a motor carrier vehicle without a safety inspection decal.** Whoever operates, permits the operation of, causes to be operated, or parks any motor carrier vehicle on a public highway without a current motor carrier vehicle safety inspection decal, issued under section 286-209, shall be fined \$100 for each day of [said] the violation [or imprisoned not more than thirty days, or both]."

SECTION 10. Section 287-44, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**"(a)** Any person convicted of a violation of [this chapter] section 287-41 shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Any person convicted of a violation of any other section in this chapter shall be fined not more than \$1,000."

SECTION 11. Section 290-12, Hawaii Revised Statutes, is amended to read as follows:

**"§290-12 Leaving abandoned or derelict vehicles[; petty misdemeanor].** The registered owner of an abandoned vehicle, as defined in section 290-1, or a derelict vehicle, as defined in section 290-8, found on any roadway, alley, street, way, lane, trail, bridge, or highway or other public property[,] or on private property without authorization of the owner or occupant[,] shall be [guilty of a petty misdemeanor,] fined not more than \$1,000; provided that the registered owner shall not be [guilty] fined if the abandoned or derelict vehicle has been stolen or taken from the registered owner without permission or authorization."

SECTION 12. Section 291C-111, Hawaii Revised Statutes, is amended by:

(1) Amending its title to read as follows:

**"§291C-111 Noncompliance with stopping, standing, or parking requirements [prohibited]."**

(2) Amending subsection (a) to read as follows:

**"(a)** [The] With respect to highways under their respective jurisdictions, the director of transportation is authorized to and the counties by ordinance may [with respect to highways under their respective jurisdictions] prohibit or restrict the stopping, standing, or parking of vehicles where the stopping, standing, or parking is dangerous to those using the highway or where the stopping, standing, or parking of vehicles would [unduly] interfere unduly with the free movement of traffic; provided that the violation of any law[,] or any ordinance, regardless of whether [or not] established under this or any other section, prohibiting or restricting the stopping, standing, or parking of vehicles[,] shall constitute a [violation under the

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Penal Code.] traffic infraction. The counties shall not provide any other penalty, civil or criminal, or any other charge, in the form of rental or otherwise, in place of[,] or in addition to[,] the fine to be imposed by the district court for any violation of any ordinance prohibiting or restricting the stopping, standing, or parking of vehicles.

The appropriate police department and county or prosecuting attorney, of the various counties[, as the case may be,] shall enforce any law or ordinance prohibiting or restricting the stopping, standing, or parking of vehicles, including[, but not limited to,] the issuance of parking tickets. Any person [convicted of] committing a violation of any law or ordinance, regardless of whether [or not] established under this or any other section, prohibiting or restricting the stopping, standing, or parking of vehicles[,] shall be subject to a fine to be enforced and collected by the district courts of this State and to be deposited into the state general fund for state use.”

SECTION 13. Section 291C-130, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Any person who violates this section shall be fined not more than \$500[, or imprisoned not more than six months, or both].”

SECTION 14. Section 291C-141, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) It is a [misdemeanor] traffic infraction for any person to do any act forbidden or fail to perform any act required in this part.”

SECTION 15. Section 291C-161, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Every person who violates section 291C-13[, or 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, shall 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].”

SECTION 16. Section 291C-167, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§291C-167]]~~ **Summons or citation on illegally parked vehicle.** Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions contained in the state traffic laws, the officer finding [such] the vehicle shall take its registration number and may take any other information displayed on the vehicle [which] that may identify its registered owner[,] and [shall] conspicuously shall affix to [such] the vehicle a citation, as described in section 291C-165, for the registered owner of record to answer [to the charge against the registered owner within seven days during the hours and at a place specified in the citation.] as provided in chapter \_\_\_\_\_.”

SECTION 17. Section 291C-171, Hawaii Revised Statutes, is amended to read as follows:

“[[§291C-171]] Disposition of fines and forfeitures. All fines and forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any section or provision of the state traffic laws and all assessments collected relating to the commission of traffic infractions shall be paid to the director of finance of the State.”

SECTION 18. Section 291C-206, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) [Violation of this section shall be a petty misdemeanor.] Any person who violates this section shall be fined not more than \$500.”

SECTION 19. Section 291C-166, Hawaii Revised Statutes, is repealed.

SECTION 20. Section 291C-168, Hawaii Revised Statutes, is repealed.

SECTION 21. The administrative director of the courts shall prepare and submit a complete implementation plan to carry out the purposes of this Act to the legislature before January 1, 1994. In preparation of the implementation plan, the judiciary shall consult representatives from the following areas: judges, court administrators, court clerks, court cashiers, court budget and fiscal officers, court computer experts, court consultants, the attorney general, prosecuting attorneys, the public defender, and the agencies having jurisdiction over motor vehicles and licensing for each of the counties. The implementation plan shall address the following:

- (1) Transfer of the existing judges and personnel into the new system;
- (2) Job descriptions and responsibilities of all employees under the new system;
- (3) Timetable and schedule of training and implementation of the new system;
- (4) Specific court rules covering areas such as:
  - (A) Circumstances where the driver's record or nature of the infraction preclude disposition of a case through the normal monetary assessment process;
  - (B) When court appearances are necessary;
  - (C) Uniform traffic citations and notices;
  - (D) Monetary assessments; and
  - (E) Court and appeal procedures;
- (5) Applicability and integration of the judiciary's computer software systems with the new system created by this Act;
- (6) Public education with respect to the new system;
- (7) Additional offenses that should be adjudicated pursuant to this Act;
- (8) Additional facilities needed to implement the new system;
- (9) Statutes and rules requiring amendment; and
- (10) Itemized related costs.

The judiciary shall submit annual status reports on its findings to the legislature at least twenty days before the convening of the regular sessions of 1995, 1996, 1997, and 1998. The judiciary shall submit a final report of its findings and recommendations to the legislature at least twenty days before the convening of the regular session of 1999.

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**SECTION 22.** If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 23.** Statutory material to be repealed is bracketed.<sup>1</sup> New statutory material is underscored.

**SECTION 24.** This Act shall take effect on July 1, 1994; except that section 21 shall take effect upon approval.

(Approved June 10, 1993.)

### **Note**

1. Edited pursuant to HRS §23G-16.5.