

ACT 59

H.B. NO. 2750

A Bill for an Act Relating to Monetary Obligations.

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

SECTION 1. The legislature finds that Hawaii law allows for the imposition of restrictions on an individual's ability to obtain or renew a driver's license or motor vehicle registration as a penalty for various unpaid monetary obligations that are civil and not criminal in nature. The most concerning reason for these punitive restrictions is the failure of an individual to pay the fines and fees assessed in connection with non-parking related traffic tickets within thirty days. This practice of imposing driver's license or vehicle registration "stoppers" may also occur as a consequence of other unpaid civil obligations.

The legislature further finds that, according to a Washington Post investigation, more than seven million individuals nationwide have had their driver's licenses suspended for unpaid court or administrative debt. The investigation also found that Hawaii has a high percentage, around nine per cent, of adults who have had their licenses suspended for unpaid debt. The American Bar Association recently adopted guidelines on preventing fines and fees that penalize poverty. These guidelines instruct against driver's license suspensions and the imposition of fines that result in substantial and undue hardship. At least four states do not allow driver's licenses to be suspended or restricted for unpaid court debt. The inability to obtain or renew a driver's license prevents people who have not committed a crime from getting to work, picking up their children, keeping medical appointments, and ultimately from escaping debt.

The purpose of this Act is to prohibit the imposition of restrictions 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 incurred on or after November 1, 2020. This Act provides the courts with a transition period by retaining the existing "stopper" law until November 1, 2020, thereby applying the prohibition of "stoppers" to any citations issued on or after November 1, 2020, while allowing, upon approval of this Act, 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 clearance. It is the intent of this Act to repeal the process for ordering "stoppers" pursuant to chapter 291D, Hawaii Revised Statutes, for citations issued on or after November 1, 2020. However, this Act shall not have any effect on driver's license suspensions related to excessive speeding, lack of motor vehicle insurance, or noncompliance with a child support order.

SECTION 2. Section 286-109, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Statutes of limitations and other provisions of this chapter notwithstanding, no driver's license or instruction permit shall be issued or renewed under this section, where the examiner of drivers is notified by the district judge, traffic violations bureaus of the district courts, or the judge of the circuit court that the applicant has failed to respond to a traffic citation or summons, or failed to appear in court after an arrest for the violation of any traffic laws of a county, this chapter or chapter 286G, 287, 290, 291, or 291C, or of any motor vehicle insurance laws under article 10C of chapter 431, or of any motorcycle or motor scooter insurance laws under article 10G of chapter 431, and the same remains delinquent and outstanding, or the applicant, has as of the time of the application, failed to comply in full with all orders of the court; provided that this

subsection shall not apply to outstanding and delinquent payments pursuant to chapter 291D; provided further that the district court with whose order an applicant has failed to comply in full, may approve the issuance or renewal of a driver's license or instruction permit other than a commercial driver's license upon conditions imposed by the court for the satisfaction of the outstanding court order and any other conditions as may be imposed by the court, if one or more of the following conditions are met:

- (1) The applicant is gainfully employed in a position that requires driving and will be discharged if the applicant is unable to drive; or
- (2) The applicant has no access to alternative transportation and therefore must drive to work;

provided further that if the applicant has failed to comply in full with orders of the district court of more than one circuit, the applicant shall obtain the approval of the district court of each circuit in which the applicant has an outstanding court order before a driver's license or instruction permit may be issued or renewed under this subsection.

A driver's license or instruction permit issued or renewed under this subsection shall be subject to immediate suspension by the court upon the applicant's failure to remain in full compliance with all conditions imposed by the court for the issuance or renewal of the driver's license or instruction permit. The examiner of drivers may place an indication of restriction upon a driver's license or instruction permit issued or renewed under this subsection. Proof of financial responsibility under section 287-20 shall not apply to the issuance or renewal of driver's licenses or instruction permits under this subsection."

SECTION 3. Section 291D-5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) The notice of traffic infraction shall include the following:

- (1) A statement of the specific traffic infraction for which the notice was issued;
- (2) Except in the case of parking-related traffic infractions, a brief statement of the facts;
- (3) A statement of the total amount to be paid for each traffic infraction, which amount shall include any fee, surcharge, or cost required by statute, ordinance, or rule, and any monetary assessment, established for the particular traffic infraction pursuant to section 291D-9, to be paid by the driver or registered owner of the vehicle, which shall be uniform throughout the State;
- (4) A statement of the options provided in section 291D-6(b) for answering the notice and the procedures necessary to exercise the options;
- (5) A statement that the person to whom the notice is issued must answer, choosing one of the options specified in section 291D-6(b), within twenty-one days of issuance of the notice;
- (6) A statement that failure to answer the notice of traffic infraction within twenty-one days of issuance shall result in the entry of judgment by default for the State and may result in the assessment of a late penalty~~[-and, that if the person to whom the notice was issued fails to pay the total amount specified in the default judgment within an additional thirty days or to otherwise take action to set aside the default, notice shall be sent to the director of finance of the appropriate county:~~

- (A) That the person to whom the notice of infraction not involving parking was issued shall not be permitted to renew or obtain a driver's license; or
- (B) Where the notice was issued to a motor vehicle, that the registered owner shall 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, except as provided in section 291D-10(b)];
- (7) A statement that, at a hearing requested to contest the notice of traffic infraction conducted pursuant to section 291D-8, no officer shall be present unless the driver timely requests the court to have the officer present, and that 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 shall be considered to have committed the traffic infraction;
- (9) A space in which the signature of the person to whom the notice was issued may be affixed; and
- (10) The date, time, and place at which the person to whom the notice was issued must appear in court, if the person is required by the notice to appear in person at the hearing."

SECTION 4. Section 291D-7, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a), (b), and (c) to read:
 - "(a) When an admitting answer is received, the court shall enter judgment in favor of the State in the total amount specified in the notice of traffic infraction. [~~If the total amount is not submitted with the answer, the court may take action as provided in section 291D-10.]~~
 - (b) When a denying answer is received, the court shall proceed as follows:
 - (1) In the case of a traffic infraction where the person requests a hearing at which the person will appear in person to contest the infraction, the court shall notify the person in writing of the date, time, and place of hearing to contest the notice of traffic infraction. The notice of hearing shall be mailed to the address stated in the denying answer, or if none is given, to the address stated on the notice of traffic infraction. 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 total amount specified in the default judgment must be paid within thirty days of entry of default judgment[, and, if it is not paid, that the court shall take action as provided in section 291D-10]; and
 - (2) When a denying answer is accompanied by a written statement of the grounds on which the person contests the notice of traffic infraction, the court shall proceed as provided in section 291D-8(a) and shall notify the person of its decision, including the total amount assessed, if any, by mailing the notice of entry of judgment within forty-five days of the postmarked date of the answer to the address provided by the person in the denying 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 at which the vehicle is registered. The notice of entry of judgment also shall advise the person, if it is determined that the infraction was committed and judgment is entered in favor of the State, that the person has the right, within thirty days of entry of judgment, to request a trial and shall specify the procedures for doing so. The notice of entry of judgment shall also notify the person, if an amount is assessed by the court for monetary assessments, fees, surcharges, or costs, that if the person does not request a trial within the time specified in this paragraph, the total amount assessed shall be paid within thirty days of entry of judgment. ~~[The notice of entry of judgment shall inform the person that if the total amount is not paid within thirty days, the court shall take action as provided in section 291D-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 where the person requests a hearing at which the person will appear in person to explain mitigating circumstances, the court shall notify the person in writing of the date, time, and place of hearing to explain mitigating circumstances. The notice of hearing shall be mailed to the address stated in the answer, or if none is given, to the address stated on the notice of traffic infraction. 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, and that the total amount stated in the default judgment must be paid within thirty days of entry of default judgment~~[-and, if it is not paid, that the court shall take action as provided in section 291D-10]; and~~
- (2) If a written explanation is included with an answer admitting commission of the infraction, the court shall enter judgment for the State and, after reviewing the explanation, determine the total amount of the monetary assessments, fees, surcharges, or costs to be assessed, if any. The court shall then notify the person of the total amount to be paid for the infraction, if any. There shall be no appeal from the judgment. If the court assesses an amount for monetary assessments, fees, surcharges, or costs, the court shall also notify the person that the total amount shall be paid within thirty days of entry of judgment. ~~[The notice of entry of judgment also shall inform the person that if the total amount is not paid within thirty days, the court shall take action as provided in section 291D-10.]~~

2. By amending subsection (c) to read:

“(e) Whenever judgment by default in favor of the State is entered, the court shall mail a notice of entry of default judgment to the address provided by the person when the notice of traffic infraction was issued or, in the case of parking infractions, to the address stated in the answer, if any, or the address at which the vehicle is registered. The notice of entry of default judgment shall advise the person that the total amount specified in the default judgment shall be paid within thirty days of entry of default judgment and shall explain the procedure for setting aside a default judgment. ~~[The notice of entry of default judgment shall also inform the person that if the total amount is not paid within thirty days, the court shall take action as provided in section 291D-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 total amount specified in the default judgment and any other assessment imposed pursuant to section 291D-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 and required appearance bond, 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 291D-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 application to set aside default judgment shall be granted, the default judgment shall be set aside, and the notice of traffic infraction shall be disposed of pursuant to this chapter. If not, the application to set aside default judgment shall be denied, the appearance bond shall be forfeited and applied to satisfy amounts due under the default judgment, and the notice of traffic infraction shall be finally disposed. In either case, the court shall determine the existence of good cause or excusable neglect and notify the person of its decision on the application in writing."

SECTION 5. Section 291D-8, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) If a person for whom a hearing has been scheduled, to contest the notice of traffic infraction or 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 291D-7(e). ~~[If the total amount of the monetary assessment, fees, surcharges, or costs is not paid within thirty days of entry of default judgment, the court shall take action as provided in section 291D-10.]~~"

SECTION 6. Section 291D-9, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(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 291D-10.]~~"

SECTION 7. Section 291D-12, Hawaii Revised Statutes, is amended to read as follows:

"§291D-12 Powers of the district court judge sitting in the traffic division.

(a) 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 dismiss a notice of traffic infraction, with or without prejudice, or to set aside a judgment for the State;
- (4) To order temporary driver's license suspension or driver's license reinstatement;
- ~~(5) 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, has not performed community service in lieu thereof, or has~~

- ~~not otherwise satisfied a judgment for the State entered pursuant to this chapter;~~
- (6) (5) To approve the issuance or renewal of a driver's license or instruction permit pursuant to section 286-109(c);
 - (7) (6) To issue penal summonses and bench warrants and initiate contempt of court proceedings in proceedings conducted pursuant to section 291D-13;
 - (8) (7) To issue penal summonses and bench warrants and initiate failure to appear proceedings in proceedings conducted pursuant to section 291D-5(d)(10); and
 - (9) (8) To exercise other powers the court finds necessary and appropriate to carry out the purposes of this chapter.

(b) A district court judge sitting in the traffic division and hearing cases pursuant to this chapter shall not order the director of finance to withhold issuing or renewing the driver's license, or registering, renewing the registration of, or issuing the title to a motor vehicle, of any person who has not paid a monetary assessment, has not performed community service in lieu thereof, or has not otherwise satisfied a judgment for the State entered pursuant to this chapter."

SECTION 8. Section 291D-10, Hawaii Revised Statutes, is repealed.

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

SECTION 10. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval; provided that sections 2 through 8 shall take effect on November 1, 2020.

(Approved September 15, 2020.)

Note

1. Edited pursuant to HRS §23G-16.5.