



GOV. MSG. NO. 843

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

May 22, 2007

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fourth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on May 22, 2007, the following bill was signed into law:

SB1529 SD2 HD2 CD1

A BILL FOR AN ACT RELATING TO TRAFFIC  
INFRACTIONS.  
(ACT 085)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE



RECEIVED  
SENATE  
OFFICE OF THE PRESIDENT  
7 MAY 22 P1:44

Approved by the Governor

on MAY 22 2007

THE SENATE  
TWENTY-FOURTH LEGISLATURE, 2007  
STATE OF HAWAII

**ACT 085**  
**S.B. NO.** 1529  
S.D. 2  
H.D. 2  
C.D. 1

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# A BILL FOR AN ACT

RELATING TO TRAFFIC INFRACTIONS.

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

1           SECTION 1. Section 291-D, Hawaii revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§291D- U-drive vehicles; traffic infractions.

5 Notwithstanding any other law to the contrary, except those  
6 pertaining to the care and maintenance of the vehicle, if the  
7 registered owner of record is the lessor of a rental or U-drive  
8 motor vehicle, as defined in section 286-2, pursuant to a  
9 written lease agreement, the lessee at the time of the issuance  
10 of the traffic infraction shall be responsible for such summons  
11 or citation; provided that the lessor shall be responsible for  
12 such summons or citation if the lessor does not provide the  
13 court having jurisdiction over the summons or citation the name  
14 and address of the lessee within forty-five days after a notice  
15 containing the date, time, and location of the violation and the  
16 license number of the vehicle; provided further that if  
17 requested by the lessor in writing within forty-five days of  
18 such notice of violation other than for parking citations, the



1 administrative judge of the court having jurisdiction over the  
2 citation or summons shall waive the requirement of providing the  
3 name and address of the lessee by the lessor and impose an  
4 administrative fee of \$5 per citation on the lessor, plus costs  
5 and fees not to exceed \$10 in total per violation,  
6 notwithstanding section 607-4 or other sections of the law,  
7 county ordinance, or any rule to the contrary. In the case of  
8 parking citations, the administrative judge of the court having  
9 jurisdiction over the citation or summons may waive the  
10 requirement of providing the name and address of the lessee by  
11 the lessor and impose an administrative fee of five dollars per  
12 parking citation on the lessor, plus costs and fees not to  
13 exceed \$10 in total per such violation, notwithstanding section  
14 607-4 or other sections of the law, county ordinance, or any  
15 rule to the contrary."

16 SECTION 2. Section 291D-2, Hawaii Revised Statutes, is  
17 amended as follows:

18 1. By adding three new definitions to be appropriately  
19 inserted and to read:

20 "Concurrent trial" means a trial proceeding held in the  
21 district or family court in which the defendant is tried  
22 simultaneously in a civil case for any charged traffic



1 infraction and in a criminal case for any related criminal  
2 offense, with trials to be held in one court on the same date  
3 and at the same time.

4 "Notice of traffic infraction" includes a notice of parking  
5 infraction.

6 "Related criminal offense" means any criminal violation or  
7 crime, committed in the same course of conduct as a traffic  
8 infraction, for which the defendant is arrested or charged."

9 2. By amending the definitions of "hearing", "traffic  
10 infraction", and "trial" to read:

11 "Hearing" means a proceeding conducted by the district  
12 court pursuant to section 291D-8 at which [~~a driver either~~] the  
13 person to whom a notice of traffic infraction was issued either  
14 admits to the traffic infraction, contests the notice of traffic  
15 infraction, or admits to the traffic infraction but offers an  
16 explanation to mitigate the monetary assessment imposed.

17 "Traffic infraction" means all violations of statutes,  
18 ordinances, or rules relating to traffic movement and control,  
19 including parking, standing, equipment, and pedestrian offenses,  
20 for which the prescribed penalties do not include  
21 imprisonment[-] and that are not otherwise specifically excluded  
22 from coverage of this chapter.



1 "Trial" means a trial conducted by the district court  
2 pursuant to the [~~Hawaii Rules of Penal Procedure and~~] rules of  
3 the district court[~~-~~] and the Hawaii rules of evidence."

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

6 **"§291D-3 Applicability.** (a) Notwithstanding any other  
7 provision of law to the contrary, all traffic infractions,  
8 including traffic infractions committed by minors, shall be  
9 adjudicated pursuant to this chapter, except as provided in  
10 subsection (b). This chapter shall be applied uniformly  
11 throughout the State and in all counties. No penal sanction  
12 that includes imprisonment shall apply to a violation of a state  
13 statute or rule, or county ordinance or rule, that would  
14 constitute a traffic infraction under this chapter. No traffic  
15 infraction shall be classified as a criminal offense.

16 (b) [~~No traffic infraction that involves an accident~~  
17 ~~resulting in personal injury or property damage~~] Where a  
18 defendant is charged with a traffic infraction and the  
19 infraction is committed in the same course of conduct as a  
20 criminal offense for which the offender is arrested or charged,  
21 the traffic infraction shall be adjudicated pursuant to this  
22 chapter[~~, but shall be adjudicated by~~]; provided that the court



1 may schedule any initial appearance, hearing, or trial on the  
2 traffic infraction at the same date, time, and place as the  
3 arraignment, hearing, or trial on the related criminal offense.

4 Notwithstanding this subsection and subsection (c), the  
5 court shall not schedule any initial appearance, hearing, or  
6 trial on the traffic infraction at the same date, time, and  
7 place as the arraignment, hearing, or trial on the related  
8 criminal offense where the related criminal offense is a felony  
9 or is a misdemeanor for which the defendant has demanded a jury  
10 trial.

11 (c) If the defendant requests a trial pursuant to section  
12 291D-13, the trial shall be held in the [appropriate] district  
13 [~~or circuit~~] court of the circuit in which the traffic  
14 infraction was committed[, ~~whichever has jurisdiction pursuant~~  
15 ~~to the applicable statute or rules of court~~]. If the court  
16 schedules a concurrent trial pursuant to paragraph (1), the  
17 concurrent trial shall be held in the appropriate district or  
18 family court of the circuit in which the traffic infraction was  
19 committed, whichever has jurisdiction over the related criminal  
20 offense charged pursuant to the applicable statute or rule of  
21 court; provided that:



1        (1) The district or family court, for the purpose of  
2        trial, may schedule a civil trial on the traffic  
3        infraction on the same date and at the same time as a  
4        criminal trial on the related criminal offense  
5        charged. The court shall enter a civil judgment as to  
6        the traffic infraction and a judgment of conviction or  
7        acquittal as to the related criminal offense following  
8        such concurrent trial; and

9        (2) If trial on the traffic infraction is held separately  
10       from and prior to trial on any related criminal  
11       offense, the following shall be inadmissible in the  
12       prosecution or trial of the related criminal offense,  
13       except as expressly provided by the Hawaii rules of  
14       evidence:

15       (A) Any written or oral statement made by the  
16       defendant in proceedings conducted pursuant to  
17       section 291D-7(b); and

18       (B) Any testimony given by the defendant in the trial  
19       on the traffic infraction.

20       Such statements or testimony shall not be deemed a  
21       waiver of the defendant's privilege against self-





1 incrimination in connection with any related criminal  
2 offense.

3 (d) In no event shall section 701-109 preclude prosecution  
4 for a related criminal offense where a traffic infraction  
5 committed in the same course of conduct has been adjudicated  
6 pursuant to this chapter.

7 ~~[(e)]~~ (e) If the defendant fails to appear ~~[for a traffic~~  
8 ~~infraction which is committed in the same course of conduct as a~~  
9 ~~criminal offense for which the offender is arrested or charged,]~~  
10 at any scheduled court date prior to the date of trial or  
11 concurrent trial and:

12 (1) The defendant's civil liability for the traffic  
13 infraction has not yet been adjudicated pursuant to  
14 section 291D-8, the court shall enter a judgment by  
15 default in favor of the State for the traffic  
16 infraction unless the court determines that good cause  
17 or excusable neglect exists for the defendant's  
18 failure to appear~~[.—The]~~; or

19 (2) The defendant's civil liability for the traffic  
20 infraction has been adjudicated previously pursuant to  
21 section 291D-8, the judgment earlier entered in favor  
22 of the State shall stand unless the court determines



1           that good cause or excusable neglect exists for the  
2           defendant's failure to appear.

3           (f) If the defendant fails to appear at any scheduled  
4           court date prior to concurrent trial or fails to appear for  
5           concurrent trial scheduled pursuant to subsection (c)(1), the  
6           court shall enter a disposition pursuant to the Hawaii rules of  
7           penal procedure for the criminal offense."

8           SECTION 4. Section 291D-5, Hawaii Revised Statutes, is  
9           amended to read as follows:

10           "**§291D-5 Notice of traffic infraction; form; determination**  
11           **final unless contested.** (a) The notice of traffic infraction  
12           for moving violations shall include the [~~complaint and~~] summons  
13           for the purposes of this chapter. Whenever a notice of traffic  
14           infraction is issued to the driver of a motor vehicle, the  
15           driver's signature, driver's license number, and current address  
16           shall be [~~affixed to~~] noted on the notice. If the driver  
17           refuses to sign the notice[~~r~~] of traffic infraction, the officer  
18           shall record this refusal on the notice and issue the notice to  
19           the driver. Individuals to whom a notice of traffic infraction  
20           is issued under this chapter need not be arraigned before the  
21           court, unless required by rule of the supreme court.



1 (b) The form for the notice of traffic infraction shall be  
2 prescribed by rules of the district court which shall be uniform  
3 throughout the State [~~— Except in the case of traffic~~  
4 ~~infractions involving parking, the~~]; provided that each judicial  
5 circuit may include differing statutory, rule, or ordinance  
6 provisions on its respective notice of traffic infraction.

7 (c) A notice of traffic infraction that is generated by  
8 the use of electronic equipment or that bears the electronically  
9 stored image of any person's signature, or both, shall be valid  
10 under this chapter.

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

13 (1) A statement of the specific traffic infraction [~~—~~  
14 ~~including a brief statement of facts,~~] for which the  
15 notice was issued;

16 (2) Except in the case of parking-related traffic  
17 infractions, a brief statement of the facts;

18 [+2+] (3) A statement of the total amount to be paid for  
19 each traffic infraction, which amount shall include  
20 any fee, surcharge, or cost required by statute,  
21 ordinance, or rule, and any monetary assessment,  
22 established for the particular traffic infraction



1           pursuant to section 291D-9, to be paid by the  
2           driver~~[7]~~ or registered owner of the vehicle, which  
3           shall be uniform throughout the State;

4       ~~[(3)]~~ (4) A statement of the options provided in section  
5           291D-6(b) for answering the notice and the procedures  
6           necessary to exercise the options;

7       ~~[(4)]~~ (5) A statement that the person to whom the notice is  
8           issued must answer, choosing one of the options  
9           specified in section 291D-6(b), within twenty-one  
10          days~~[+]~~ of issuance of the notice;

11       ~~[(5)]~~ (6) A statement that failure to answer the notice of  
12          traffic infraction within twenty-one days of issuance  
13          shall result in the entry of judgment by default for  
14          the State and may result in the assessment of a late  
15          penalty, and, that if the ~~[driver]~~ person to whom the  
16          notice was issued fails to pay the total amount  
17          specified in the default judgment within an additional  
18          thirty days or to otherwise take action to set aside  
19          the default, notice shall be sent to the director of  
20          finance of the appropriate county ~~[that]~~ :

21          (A) That the person to whom the notice of infraction  
22          not involving parking was issued shall not be



1 permitted to renew or obtain a driver's license;  
2 or ~~[, where]~~

3 (B) Where the notice was issued to a motor vehicle,  
4 that the registered owner shall not be permitted  
5 to register, renew the registration of, or  
6 transfer title to the motor vehicle until the  
7 traffic infraction is finally disposed of  
8 pursuant to this chapter ~~[,]~~ , except as provided  
9 in section 291D-10(b);

10 ~~[(6)]~~ (7) A statement that, at a hearing requested to  
11 contest the notice of traffic infraction conducted  
12 pursuant to section 291D-8 ~~[or in consideration of a~~  
13 ~~written statement contesting the notice of traffic~~  
14 ~~infraction]~~, no officer shall be present unless the  
15 driver timely requests the court to have the officer  
16 present ~~[. The]~~ , and that the standard of proof to be  
17 applied by the court is whether a preponderance of the  
18 evidence proves that the specified traffic infraction  
19 was committed;

20 ~~[(7)]~~ (8) A statement that, at a hearing requested for the  
21 purpose of explaining mitigating circumstances  
22 surrounding the commission of the infraction or in



1 consideration of a written request for mitigation, the  
2 person shall be considered to have committed the  
3 traffic infraction;

4 [~~+8~~] (9) A space in which the [~~driver's~~] signature [~~7~~  
5 ~~current address, and driver's license number~~] of the  
6 person to whom the notice was issued may be affixed;  
7 and

8 [~~+9~~] (10) The date, time, and place at which the [~~driver~~]  
9 person to whom the notice was issued must appear in  
10 court, if the [~~driver~~] person is required by the  
11 notice to [~~go to~~] appear in person at the hearing.

12 [~~+e~~] (e) In the case of traffic infractions involving  
13 parking [~~7~~] or equipment, where the motor vehicle is found parked  
14 or stopped without a driver, the notice shall be affixed  
15 conspicuously to the vehicle as provided in section 291C-167 and  
16 shall include the information required by paragraphs (1) and (3)  
17 to [~~+8~~] (9) of subsection [~~+b~~] (d)."

18 SECTION 5. Section 291D-6, Hawaii Revised Statutes, is  
19 amended by amending subsections (a) and (b) to read as follows:

20 "(a) A person who receives a notice of traffic infraction  
21 shall answer the notice within twenty-one days of the date of  
22 issuance of the notice. There shall be included with the notice



1 of traffic infraction a preaddressed envelope directed to the  
2 traffic violations bureau of the applicable district court.

3 (b) ~~[In]~~ Provided that the notice of traffic infraction  
4 does not require an appearance in person at hearing as set forth  
5 in section 291D-5(b)(10), in answering a notice of traffic  
6 infraction, a person shall have the following options:

7 (1) Admit the commission of the infraction in one of the  
8 following ways:

9 (A) By mail or in person, by completing the  
10 appropriate portion of the notice of traffic  
11 infraction or preaddressed envelope and  
12 submitting it to the authority specified on the  
13 notice together with payment of the total amount  
14 stated on the notice of traffic infraction.  
15 Payment by mail shall be in the form of a check,  
16 money order, or by an approved credit or debit  
17 card. Payment in person shall be in the form of  
18 United States currency, check, money order, or by  
19 an approved credit or debit card; or

20 (B) Via the Internet or by telephone, by submitting  
21 payment of the total amount stated on the notice  
22 of traffic infraction. Payment via the Internet



1 or by telephone shall be by an approved credit or  
2 debit card;

3 (2) Deny the commission of the infraction and request a  
4 hearing to contest the infraction by completing the  
5 appropriate portion of the notice of traffic  
6 infraction or preaddressed envelope and submitting it,  
7 either by mail or in person, to the authority  
8 specified on the notice. In lieu of appearing in  
9 person at a hearing, the person may submit a written  
10 statement of grounds on which the person contests the  
11 notice of traffic infraction, which shall be  
12 considered by the court as a statement given in court  
13 pursuant to section 291D-8(a); or

14 (3) Admit the commission of the infraction and request a  
15 hearing to explain circumstances mitigating the  
16 infraction by completing the appropriate portion of  
17 the notice of traffic infraction or preaddressed  
18 envelope and submitting it, either by mail or in  
19 person, to the authority specified on the notice. In  
20 lieu of appearing in person at a hearing, the person  
21 may submit a written explanation of the mitigating  
22 circumstances, which shall be considered by the court



1 as a statement given in court pursuant to section  
2 291D-8(b)."

3 SECTION 6. Section 291D-7, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 **"§291D-7 Court action after answer or failure to answer.**

6 (a) When an admitting answer is received, the court [~~shall~~  
7 ~~review the driver's abstract. The court~~] shall enter judgment  
8 in favor of the State in the total amount specified in the  
9 notice of traffic infraction. If the total amount is not  
10 submitted with the answer, the court [~~shall~~] may take action as  
11 provided in section 291D-10.

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

14 (1) In the case of a traffic infraction [~~that does not~~  
15 ~~involve parking~~] where the person requests a hearing  
16 at which the person will appear in person to contest  
17 the infraction, the court shall notify the person in  
18 writing of the date, time, and place of hearing to  
19 contest the notice of traffic infraction. The notice  
20 of hearing shall be [~~sent~~] mailed to the address  
21 stated in the denying answer, or if none is given, to  
22 the address stated on the notice of traffic



1           infraction. The notification also shall advise the  
2           person that, if the person fails to appear at the  
3           hearing, the court shall enter judgment by default in  
4           favor of the State, as of the date of the scheduled  
5           hearing, that the total amount specified in the  
6           default judgment must be paid within thirty days [~~from~~  
7           ~~notice~~] of entry of default[~~7~~] judgment, and, if it is  
8           not paid, that the court shall take action as provided  
9           in section 291D-10;

10       ~~[(2) In the case of a traffic infraction that involves~~  
11       ~~parking, the court shall notify the person or~~  
12       ~~registered owner or owners in writing of the date,~~  
13       ~~time, and place of hearing to contest the notice of~~  
14       ~~traffic infraction. The notice of hearing shall be~~  
15       ~~sent to the address stated in the denying answer or,~~  
16       ~~if none is given, to the address at which the vehicle~~  
17       ~~is registered. The notification also shall advise the~~  
18       ~~person that, if the person fails to appear at the~~  
19       ~~hearing, the court shall enter judgment by default in~~  
20       ~~favor of the State, as of the date of the scheduled~~  
21       ~~hearing, that the total amount specified in the~~  
22       ~~default judgment shall be paid within thirty days from~~



1 ~~notice of default, and, if it is not paid, that the~~  
2 ~~court shall take action as provided in section~~  
3 ~~291D-10,] and~~

4 [(3)] (2) When a denying answer is accompanied by a written  
5 statement of the grounds on which the person contests  
6 the notice of [the] traffic infraction, the court  
7 shall proceed as provided in section 291D-8(a) and  
8 shall notify the person of its decision, including the  
9 total amount assessed, if any, by mailing [it] the  
10 notice of entry of judgment within [~~thirty~~] forty-five  
11 days of the postmarked date of the answer to the  
12 address provided by the person in the denying answer,  
13 or if none is given, to the address given when the  
14 notice of traffic infraction was issued or, in the  
15 case of parking violations, [~~to the address stated in~~  
16 ~~the denying answer or, if none is given,~~] to the  
17 address at which the vehicle is registered. The  
18 [~~decision~~] notice of entry of judgment also shall  
19 advise the person, if it is determined that the  
20 infraction was committed[~~]~~ and judgment is entered in  
21 favor of the State, that the person has the right,  
22 within thirty days[~~]~~ of entry of judgment, to request



1 a trial and shall specify the procedures for doing so.  
2 The notice of [~~decision~~] entry of judgment shall also  
3 notify the person, if an amount is assessed by the  
4 court for [~~finer~~] monetary assessments, fees,  
5 surcharges, or costs [~~, or monetary assessments~~], that  
6 if the person does not request a trial [~~]~~ within the  
7 time specified in this paragraph, the total amount  
8 assessed shall be paid within thirty days [~~]~~ of entry  
9 of judgment. The notice of entry of judgment shall  
10 [~~warn~~] inform the person that if the total amount is  
11 not paid within thirty days, the court shall take  
12 action as provided in section 291D-10.

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

16 (1) In the case of a traffic infraction [~~which does not~~  
17 ~~involve parking~~] where the person requests a hearing  
18 at which the person will appear in person to explain  
19 mitigating circumstances, the court shall notify the  
20 person in writing of the date, time, and place of  
21 hearing to explain mitigating circumstances. The  
22 notice of hearing shall be [~~sent~~] mailed to the



1 address stated in the answer, or if none is given, to  
2 the address stated on the notice of traffic  
3 infraction. The notification also shall advise the  
4 person that, if the person fails to appear at the  
5 hearing, the court shall enter judgment by default in  
6 favor of the State, as of the date of the scheduled  
7 hearing, that the total amount stated in the default  
8 judgment [~~shall~~] must be paid within thirty days [~~from~~  
9 ~~notice~~] of entry of default [~~7~~] judgment, and, if it is  
10 not paid, that the court shall take action as provided  
11 in section 291D-10;

12 [~~(2)~~] ~~In the case of a traffic infraction which involves~~  
13 ~~parking, the court shall notify the person in writing~~  
14 ~~of the date, time, and place of the hearing. The~~  
15 ~~notice shall be sent to the address at which the~~  
16 ~~vehicle is registered. The notice of hearing on~~  
17 ~~mitigating circumstances shall advise the person that~~  
18 ~~the court shall enter judgment for the State and the~~  
19 ~~hearing shall be limited to an explanation of the~~  
20 ~~mitigating circumstances. The notice of hearing also~~  
21 ~~shall state that if the person fails to appear at the~~  
22 ~~hearing, the total amount specified in the default~~



1 ~~judgment shall be paid within thirty days of the~~  
2 ~~scheduled hearing. The notice of hearing shall warn~~  
3 ~~the person that if the total amount is not paid within~~  
4 ~~thirty days, the court shall take action as provided~~  
5 ~~in section 291D-10,] and~~

6 ~~[(3)]~~ (2) If a written explanation is included with an  
7 answer admitting commission of the infraction, the  
8 court shall enter judgment for the State and, after  
9 reviewing the explanation, determine the total amount  
10 of the ~~[fines,]~~ monetary assessments, fees,  
11 surcharges, or costs~~[, or monetary assessments]~~ to be  
12 assessed, if any. The court shall then notify the  
13 person of the total amount to be paid for the  
14 infraction, if any. There shall be no appeal from the  
15 ~~[order.]~~ judgment. If the court assesses an amount  
16 for ~~[fines,]~~ monetary assessments, fees, surcharges,  
17 or costs~~[, or monetary assessments]~~, the court shall  
18 also notify the person that the total amount shall be  
19 paid within thirty days of ~~[the postmarked date of the~~  
20 ~~decision.]~~ entry of judgment. The notice of entry of  
21 judgment also shall ~~[warn]~~ inform the person that if  
22 the total amount is not paid within thirty days, the



1 court shall take action as provided in section  
2 291D-10.

3 (d) If the person fails to answer within twenty-one days  
4 of issuance of the notice of traffic infraction, the court shall  
5 take action as provided in subsection (e).

6 (e) Whenever judgment by default in favor of the State is  
7 entered, the court shall mail a notice of entry of default  
8 judgment [~~of default~~] to the address provided by the person when  
9 the notice of traffic infraction was issued or, in the case of  
10 parking [~~violations,~~] infractions, to the address stated in the  
11 answer, if any, or the address at which the vehicle is  
12 registered. The notice of entry of default judgment shall  
13 advise the person that the total amount specified in the default  
14 judgment shall be paid within thirty days of entry of default  
15 judgment and shall explain the procedure for setting aside a  
16 default judgment. The notice of entry of default judgment shall  
17 also [~~warn~~] inform the person that if the total amount is not  
18 paid within thirty days, the court shall take action as provided  
19 in section 291D-10. Judgment by default for the State entered  
20 pursuant to this chapter may be set aside pending final  
21 disposition of the traffic infraction upon written application  
22 of the person and posting of an appearance bond equal to the



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





1 SECTION 7. Section 291D-8, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§291D-8 Hearings.** (a) In proceedings to contest [~~the~~  
4 ~~issuance of~~] a notice of traffic [~~infractions~~] infraction where  
5 the person to whom the notice was issued has timely requested a  
6 hearing and appears at such hearing:

- 7 (1) In lieu of the personal appearance by the officer who  
8 issued the notice of traffic infraction, the court  
9 shall consider the notice of traffic infraction and  
10 any other written report made by the officer, if  
11 provided to the court by the officer, together with  
12 any oral or written statement by the [~~driver,~~] person  
13 to whom the notice of infraction was issued, or in the  
14 case of traffic infractions involving parking[~~ing~~] or  
15 equipment, the operator or registered owner of the  
16 motor vehicle;
- 17 (2) The court may compel by subpoena the attendance of the  
18 officer who issued the notice of traffic infraction  
19 and other witnesses from whom it may wish to hear;
- 20 (3) The standard of proof to be applied by the court shall  
21 be whether, by a preponderance of the evidence [~~proves~~



1           ~~that~~, the court finds that the traffic infraction was  
2 committed; and

- 3           (4) After due consideration of the evidence and arguments,  
4 if any, the court shall determine whether commission  
5 of the traffic infraction has been established. Where  
6 the commission of the traffic infraction has not been  
7 established, ~~[an order]~~ judgment in favor of the  
8 defendant, dismissing the notice of traffic infraction  
9 or any count therein with prejudice, shall be entered  
10 in the ~~[records-]~~ record. Where it has been  
11 established that the traffic infraction was committed,  
12 the court shall enter judgment ~~[for]~~ in favor of the  
13 State and ~~[may]~~ shall assess a monetary assessment  
14 pursuant to section 291D-9~~[-]~~, together with any fees,  
15 surcharges, or costs. The court also shall inform the  
16 person of the right to request~~[, within thirty days,]~~  
17 a trial pursuant to section 291D-13. If the person  
18 requests a trial at the time of the hearing, the court  
19 shall provide the person with the trial date  
20 ~~[forthwith. If trial is elected, arraignment and plea~~  
21 ~~shall be held at the time of trial-]~~ as soon as  
22 practicable.



1 (b) In proceedings to explain mitigating circumstances[+]   
2 where the person to whom the notice of traffic infraction was   
3 issued has timely requested a hearing and appears at such   
4 hearing:

5 (1) The procedure [~~shall be informal and~~] shall be limited   
6 to the issue of mitigating circumstances. A person   
7 who requests to explain the circumstances shall not be   
8 permitted to contest the [~~issuance of~~] the notice of   
9 traffic infraction; [~~and~~]

10 (2) After the court has received the explanation, the   
11 court shall enter judgment [~~for~~] in favor of the State   
12 and may assess a monetary assessment[+] pursuant to   
13 section 291D-9[~~+~~and], together with any fees,   
14 surcharges, or costs;

15 (3) The court, after receiving the explanation, may vacate   
16 the admission and [~~dismiss~~] enter judgment in favor of   
17 the defendant, dismissing the notice of traffic   
18 infraction or any count therein with prejudice, where   
19 the explanation establishes that the infraction was   
20 not committed; and

21 (4) There shall be no appeal from the [~~order~~] judgment.



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

9 SECTION 8. Section 291D-12, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 **"§291D-12 Powers of the district court judge sitting in**  
12 **the traffic division.** A district court judge sitting in the  
13 traffic division and hearing cases pursuant to this chapter  
14 shall have all the powers of a district court judge under  
15 chapter 604, including the following powers:

- 16 (1) To conduct traffic infraction hearings and to impose  
17 monetary assessments;
- 18 (2) To permit deferral of monetary assessment or impose  
19 community service in lieu thereof;
- 20 (3) To dismiss a notice of traffic infraction, with or  
21 without prejudice, or to set aside a judgment for the  
22 State;



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



1 SECTION 9. Section 291D-13, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§291D-13 Trial~~[-]~~ and concurrent trial.** (a) There shall  
4 be no right to trial unless the defendant contests the notice of  
5 traffic infraction pursuant to section 291D-8. If, after  
6 proceedings to contest the notice of traffic infraction, a  
7 determination is made that ~~[a person]~~ the defendant committed  
8 the traffic infraction, ~~[the person]~~ judgment shall enter in  
9 favor of the State. The defendant may request~~[-, within thirty~~  
10 days of the determination,] a trial pursuant to the ~~[rules of~~  
11 ~~penal procedure]~~ Hawaii rules of evidence and the rules of the  
12 district court~~[-, provided that arraignment and plea for such~~  
13 ~~trial shall be held at the time of trial.];~~ provided that any  
14 request for trial shall be made within thirty days of entry of  
15 judgment. If, after appearing in person at a hearing to contest  
16 the notice of traffic infraction, the person requests a trial at  
17 the conclusion of the ~~[proceedings to contest the notice of~~  
18 ~~traffic infraction,]~~ hearing, the court shall provide the person  
19 with the trial date ~~[forthwith. A notice of traffic infraction~~  
20 ~~shall not be adjudicated pursuant to this section until~~  
21 ~~proceedings pursuant to section 291D-8 have been completed.]~~ as  
22 soon as practicable.



1 (b) [~~The result of the final determination or any~~  
2 ~~admission made pursuant to section 291D-6 shall not be~~  
3 ~~admissible in any trial conducted pursuant to section 291D-13.~~]

4 At the time of trial, the State shall be represented by a  
5 prosecuting attorney of the county in which the infraction  
6 occurred. The prosecuting attorney shall orally recite the  
7 charged civil traffic infraction in court prior to commencement  
8 of the trial. Proof of the defendant's commission of the  
9 traffic infraction shall be by a preponderance of the evidence.

10 (c) If trial on the traffic infraction is held prior to  
11 trial on any related criminal offense, the following shall be  
12 inadmissible in the subsequent prosecution or trial of the  
13 related criminal offense:

14 (1) Any written or oral statement made by the defendant in  
15 proceedings conducted pursuant to section 291D-7(b);

16 and

17 (2) Any testimony given by the defendant in the traffic  
18 infraction trial.

19 The statement or testimony, or both, shall not be deemed a  
20 waiver of the defendant's privilege against self-incrimination  
21 in connection with any related criminal offense.



1        (d) In any concurrent trial, the State shall be  
2 represented by a prosecuting attorney of the county in which the  
3 infraction and related crime occurred. Proof of the defendant's  
4 commission of the infraction shall be by a preponderance of the  
5 evidence, and proof of the related criminal offense shall be by  
6 proof beyond a reasonable doubt. The concurrent trial shall be  
7 conducted pursuant to the rules of the appropriate court, the  
8 Hawaii rules of evidence, and the Hawaii rules of penal  
9 procedure."

10        SECTION 10. Section 291D-14, Hawaii Revised Statutes, is  
11 amended to read as follows:

12        "[+]§291D-14[+] **Rules.** (a) The supreme court may adopt  
13 rules of procedure for the conduct of all proceedings pursuant  
14 to this chapter.

15        (b) Chapter 626 shall not apply in proceedings conducted  
16 pursuant to this chapter, except for the rules governing  
17 privileged communications, and proceedings conducted under  
18 section 291D-13.

19        (c) Notwithstanding section 604-17, while the court is  
20 sitting in any matter pursuant to this chapter, the court shall  
21 not be required to preserve the testimony or proceedings, except  
22 proceedings conducted pursuant to section 291D-13[-] and





1 proceedings in which the traffic infraction is heard on the same  
 2 date and time as any related criminal offense.

3 (d) The prosecuting attorney shall not participate in  
 4 traffic infraction proceedings conducted pursuant to this  
 5 chapter, except proceedings pursuant to section 291D-13[-] and  
 6 proceedings in which a related criminal offense is scheduled for  
 7 arraignment, hearing, or concurrent trial.

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

10 (f) Except as otherwise provided in section 291D-3,  
 11 chapter 571, and the Hawaii family court rules shall not apply  
 12 in any proceedings conducted pursuant to this chapter."

13 SECTION 11. Section 437D-17.5, Hawaii Revised Statutes, is  
 14 amended to read as follows:

15 "[~~f~~]~~§437D-17.5~~[~~}]~~ **Rental agreements; unpaid [parking**  
 16  **Citations] traffic infractions.** Pursuant to section  
 17 [~~291C-168.5,~~] 291D- , or other sections of the law and except  
 18 for summons, citations, or violations relating to the care and  
 19 maintenance of a rental motor vehicle, the lessor, as the  
 20 registered owner of the rental motor vehicle, may be responsible  
 21 for fines [~~or~~], costs, penalties, fees, or other charges related  
 22 to [~~parking citations-~~] traffic infractions of a motor vehicle



1 while being leased or rented to a lessee. The lessor may adopt  
2 a policy of charging the lessee the actual [~~cost of the parking~~  
3 ~~citation~~] amount paid for the traffic infractions to the court  
4 or other state government agency or county government plus an  
5 administrative fee not to exceed [~~\$20;~~] out-of-pocket expenses  
6 documented by receipts plus up to four hours of work multiplied  
7 by Hawaii's prevailing minimum wage relating to research of  
8 files and communications with the court, county government or  
9 governmental agencies and lessee; provided[~~, however,~~] that  
10 every rental agreement of a lessor adopting the policy must  
11 disclose, at a minimum, in plain language and in at least ten-  
12 point bold typeface print:

- 13 (1) The maximum estimated amount of the administrative fee  
14 to be charged; and  
15 (2) Language encouraging the lessee to pay directly to the  
16 court, county government or other appropriate  
17 government agency the [~~parking citation directly.~~]  
18 applicable fines, costs, monetary assessments,  
19 penalties, fees, surcharges, or other charges."

20 SECTION 12. Section 291C-168.5, Hawaii Revised Statutes,  
21 is repealed.



1           ~~["§291C-168.5] Liability of lessee for parking citation.~~  
2   ~~Notwithstanding any other law to the contrary, if the registered~~  
3   ~~owner of record is the lessor of a rental or U drive motor~~  
4   ~~vehicle, as defined in section 286-2 pursuant to a written lease~~  
5   ~~agreement, the lessee at the time of the issuance of the parking~~  
6   ~~citation shall be responsible for such summons or citation;~~  
7   ~~provided, however, said lessor shall be responsible for such~~  
8   ~~summons or citation if the lessor does not provide the court~~  
9   ~~having jurisdiction over the summons or citation the name and~~  
10   ~~address of the lessee within forty five days after a notice~~  
11   ~~containing the date, time, and location of the violation and the~~  
12   ~~license number of the vehicle is sent to lessor; provided~~  
13   ~~further that the administrative judge of the court having~~  
14   ~~jurisdiction over the citation or summons may waive the~~  
15   ~~requirement of providing the name and address of the lessee by~~  
16   ~~the lessor and impose an administrative fee of five dollars per~~  
17   ~~citation on the lessor."}]~~

18           SECTION 13. Statutory material to be repealed is bracketed  
19   and stricken. New statutory material is underscored.

20           SECTION 14. This Act shall take effect on January 1, 2008.





S.B. NO. 1529  
S.D. 2  
H.D. 2  
C.D. 1



GOVERNOR OF THE STATE OF HAWAII

Approved this day: MAY 22 2007

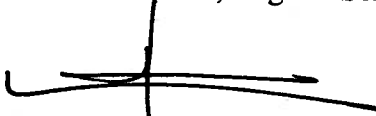


S.B. No. 1529, S.D. 2, H.D. 2, C.D. 1


**THE SENATE OF THE STATE OF HAWAII**

Date: April 25, 2007  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Twenty-fourth Legislature of the State of Hawaii, Regular Session of 2007.



President of the Senate

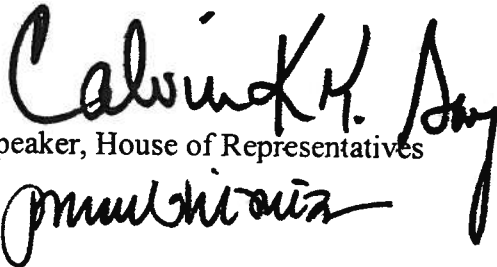


Clerk of the Senate


**THE HOUSE OF REPRESENTATIVES  
OF THE STATE OF HAWAII**

Date: April 25, 2007  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the House of Representatives of the Twenty-fourth Legislature of the State of Hawaii, Regular Session of 2007.



Speaker, House of Representatives



Clerk, House of Representatives

