
A BILL FOR AN ACT

RELATING TO TRAFFIC INFRACTIONS.

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

1 SECTION 1. Chapter 291D, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By adding a new section to be appropriately designated
4 and to read:

5 "§291D- U-drive vehicles; traffic infractions.

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



1 five days of such notice of violation other than for parking
2 citations, the administrative judge of the court having
3 jurisdiction over the citation or summons shall waive the
4 requirement of providing the name and address of the lessee by
5 the lessor and impose an administrative fee per statute of \$5
6 per citation on the lessor, plus monetary assessments,
7 surcharges, penalties, fines, costs, fees, and other charges not
8 to exceed \$10 in total per violation, notwithstanding section
9 291D-9, 607-4, or other sections of the law, county ordinance,
10 or any rule to the contrary. In the case of parking citations,
11 the administrative judge of the court having jurisdiction over
12 the citation or summons may waive the requirement of providing
13 the name and address of the lessee by the lessor and impose an
14 administrative fee of \$5 per parking citation on the lessor,
15 plus monetary assessments, surcharges, penalties, fines, costs,
16 fees, and other charges not to exceed \$10 in total per such
17 violation, notwithstanding section 291D-9, 607-4, or other
18 sections of the law, county ordinance, or any rule to the
19 contrary."

20 2. By adding three new definitions to be appropriately
21 inserted to section 291D-2 to read:



1 "Concurrent trial" means a trial proceeding held in the
2 district or family court in which the defendant is tried
3 simultaneously in a civil case for any charged traffic
4 infraction and in a criminal case for any related criminal
5 offense, with trials to be held in one court on the same date
6 and at the same time.

7 "Notice of traffic infraction" includes a notice of parking
8 violation.

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

12 3. By amending the definitions of "hearing", "traffic
13 infraction", and "trial" to section 291D-2 to read:

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

20 "Traffic infraction" means all violations of statutes,
21 ordinances, or rules relating to traffic movement and control,
22 including parking, standing, equipment, and pedestrian offenses,



1 for which the prescribed penalties do not include
2 imprisonment[-] and that are not otherwise specifically excluded
3 from coverage of this chapter.

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

7 4. By amending section 291D-3 to read:

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

18 (b) [~~No traffic infraction that involves an accident~~
19 ~~resulting in personal injury or property damage~~] Where a
20 defendant is charged with a traffic infraction and the
21 infraction is committed in the same course of conduct as a
22 criminal offense for which the offender is arrested or charged,



1 the traffic infraction shall be adjudicated pursuant to this
2 chapter[~~, but shall be adjudicated by~~]; provided that the court
3 may schedule any initial appearance, hearing, or trial on the
4 traffic infraction at the same date, time, and place as the
5 arraignment, hearing, or trial on the related criminal offense.

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

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



1 offense charged pursuant to the applicable statute or rule of
2 court; provided that:

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

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

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

20 (B) Any testimony given by the defendant in the trial
21 on the traffic infraction.



1 Such statements or testimony shall not be deemed a
2 waiver of the defendant's privilege against self-
3 incrimination in connection with any related criminal
4 offense.

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

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

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

21 (2) The defendant's civil liability for the traffic
22 infraction has been adjudicated previously pursuant to



1 section 291D-8, the judgment earlier entered in favor
2 of the State shall stand unless the court determines
3 that good cause or excusable neglect exists for the
4 defendant's failure to appear.

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

10 5. By amending section 291D-5 to read:

11 "**§291D-5 Notice of traffic infraction; form; determination**
12 **final unless contested.** (a) The notice of traffic infraction
13 for moving violations shall include the [~~complaint and~~] summons
14 for the purposes of this chapter. Whenever a notice of traffic
15 infraction is issued to the driver of a motor vehicle, the
16 driver's signature, driver's license number, and current address
17 shall be [~~affixed to~~] noted on the notice. If the driver
18 refuses to sign the notice[~~7~~] of traffic infraction, the officer
19 shall record this refusal on the notice and issue the notice to
20 the driver. Individuals to whom a notice of traffic infraction
21 is issued under this chapter need not be arraigned before the
22 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~~] state; provided that each
5 judicial circuit may include differing statutory, rule, or
6 ordinance provisions on its respective notice of traffic
7 infraction.

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

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

14 (1) A statement of the specific traffic infraction[~~7~~
15 ~~including a brief statement of facts,~~] for which the
16 notice was issued;

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

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



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

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

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

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



1 (A) That the person to whom the notice of infraction
2 not involving parking was issued shall not be
3 permitted to renew or obtain a driver's license;
4 or [~~where~~]

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

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



1 ~~[(7)]~~ (8) A statement that, at a hearing requested for the
2 purpose of explaining mitigating circumstances
3 surrounding the commission of the infraction or in
4 consideration of a written request for mitigation, the
5 person shall be considered to have committed the
6 traffic infraction;

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

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

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

21 6. By amending subsections (a) and (b) of section 291D-6
22 to read:



1 "(a) A person who receives a notice of traffic infraction
2 shall answer the notice within twenty-one days of the date of
3 issuance of the notice. There shall be included with the notice
4 of traffic infraction a preaddressed envelope directed to the
5 traffic violations bureau of the applicable district court.

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

10 (1) Admit the commission of the infraction in one of the
11 following ways:

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



1 (B) Via the Internet or by telephone, by submitting
2 payment of the total amount stated on the notice
3 of traffic infraction. Payment via the Internet
4 or by telephone shall be by an approved credit or
5 debit card;

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

17 (3) Admit the commission of the infraction and request a
18 hearing to explain circumstances mitigating the
19 infraction by completing the appropriate portion of
20 the notice of traffic infraction or preaddressed
21 envelope and submitting it, either by mail or in
22 person, to the authority specified on the notice. In



1 lieu of appearing in person at a hearing, the person
2 may submit a written explanation of the mitigating
3 circumstances, which shall be considered by the court
4 as a statement given in court pursuant to section
5 291D-8(b)."

6 7. By amending section 291D-7 to read:

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

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

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

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



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



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

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



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

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

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



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

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



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

8 ~~[-(3)]~~ (2) If a written explanation is included with an
9 answer admitting commission of the infraction, the
10 court shall enter judgment for the State and, after
11 reviewing the explanation, determine the total amount
12 of the [~~finer,~~] monetary assessments, fees,
13 surcharges, or costs [~~, or monetary assessments~~] to be
14 assessed, if any. The court shall then notify the
15 person of the total amount to be paid for the
16 infraction, if any. There shall be no appeal from the
17 [~~order-~~] judgment. If the court assesses an amount
18 for [~~finer,~~] monetary assessments, fees, surcharges,
19 or costs [~~, or monetary assessments~~], the court shall
20 also notify the person that the total amount shall be
21 paid within thirty days of [~~the postmarked date of the~~
22 ~~decision-~~] entry of judgment. The notice of entry of



1 judgment also shall [~~warn~~] inform the person that if
2 the total amount is not paid within thirty days, the
3 court shall take action as provided in section
4 291D-10.

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

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



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



1 the existence of good cause or excusable neglect and notify the
2 person of its decision on the application in writing."

3 8. By amending section 291D-8 to read:

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

8 (1) In lieu of the personal appearance by the officer who
9 issued the notice of traffic infraction, the court
10 shall consider the notice of traffic infraction and
11 any other written report made by the officer, if
12 provided to the court by the officer, together with
13 any oral or written statement by the [~~driver,~~] person
14 to whom the notice of infraction was issued, or in the
15 case of traffic infractions involving parking[~~]~~ or
16 equipment, the operator or registered owner of the
17 motor vehicle;

18 (2) The court may compel by subpoena the attendance of the
19 officer who issued the notice of traffic infraction
20 and other witnesses from whom it may wish to hear;

21 (3) The standard of proof to be applied by the court shall
22 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 9. By amending section 291D-12 to read:

10 **"§291D-12 Powers of the district court judge sitting in**
 11 **the traffic division.** A district court judge sitting in the
 12 traffic division and hearing cases pursuant to this chapter
 13 shall have all the powers of a district court judge under
 14 chapter 604, including the following powers:

15 (1) To conduct traffic infraction hearings and to impose
 16 monetary assessments;

17 (2) To permit deferral of monetary assessment or impose
 18 community service in lieu thereof;

19 (3) To dismiss a notice of traffic infraction, with or
 20 without prejudice, or to set aside a judgment for the
 21 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."
- 22 10. By amending section 291D-13 to read:



1 "~~§291D-13 Trial[-]~~ and concurrent trial. (a) There shall
2 be no right to trial unless the defendant contests the notice of
3 traffic infraction pursuant to section 291D-8. If, after
4 proceedings to contest the notice of traffic infraction, a
5 determination is made that [~~a person~~] the defendant committed
6 the traffic infraction, [~~the person~~] judgment shall enter in
7 favor of the State. The defendant may request [~~, within thirty~~
8 ~~days of the determination,~~] a trial pursuant to the [~~rules of~~
9 ~~penal procedure~~] Hawaii rules of evidence and the rules of the
10 district court [~~, provided that arraignment and plea for such~~
11 ~~trial shall be held at the time of trial.];~~ provided that any
12 request for trial shall be made within thirty days of entry of
13 judgment. If, after appearing in person at a hearing to contest
14 the notice of traffic infraction, the person requests a trial at
15 the conclusion of the [~~proceedings to contest the notice of~~
16 ~~traffic infraction,~~] hearing, the court shall provide the person
17 with the trial date [~~forthwith. A notice of traffic infraction~~
18 ~~shall not be adjudicated pursuant to this section until~~
19 ~~proceedings pursuant to section 291D-8 have been completed.]~~ as
20 soon as practicable.

21 (b) [~~The result of the final determination or any~~
22 ~~admission made pursuant to section 291D-6 shall not be~~



1 ~~admissible in any trial conducted pursuant to section 291D-13.]~~

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

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

12 (1) Any written or oral statement made by the defendant in
13 proceedings conducted pursuant to section 291D-7(b);
14 and
15 (2) Any testimony given by the defendant in the traffic
16 infraction trial.

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

20 (d) In any concurrent trial, the State shall be
21 represented by a prosecuting attorney of the county in which the
22 infraction and related crime occurred. Proof of the defendant's



1 commission of the infraction shall be by a preponderance of the
2 evidence, and proof of the related criminal offense shall be by
3 proof beyond a reasonable doubt. The concurrent trial shall be
4 conducted pursuant to the rules of the appropriate court, the
5 Hawaii rules of evidence, and the Hawaii rules of penal
6 procedure."

7 11. By amending section 291D-14 to read:

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

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

15 (c) Notwithstanding section 604-17, while the court is
16 sitting in any matter pursuant to this chapter, the court shall
17 not be required to preserve the testimony or proceedings, except
18 proceedings conducted pursuant to section 291D-13 [~~-~~] and
19 proceedings in which the traffic infraction is heard on the same
20 date and time as any related criminal offense.

21 (d) The prosecuting attorney shall not participate in
22 traffic infraction proceedings conducted pursuant to this



1 chapter, except proceedings pursuant to section 291D-13 [-] and
2 proceedings in which a related criminal offense is scheduled for
3 arraignment, hearing, or concurrent trial.

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

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

9 12. By amending section 437D-17.5 to read:

10 "[+] §437D-17.5 [+] **Rental agreements; unpaid [parking**
11 **Citations] traffic infractions.** Pursuant to section [~~291C-~~
12 ~~168.5,~~] 291D- , or other sections of the law and except for
13 summons, citations, or violations relating to the care and
14 maintenance of a rental motor vehicle, the lessor, as the
15 registered owner of the rental motor vehicle, may be responsible
16 for fines [~~or~~], costs, penalties, fees, or other charges related
17 to [~~parking citations-~~] traffic infractions of a motor vehicle
18 while being leased or rented to a lessee. The lessor may adopt
19 a policy of charging the lessee the actual [~~cost of the parking~~
20 ~~citation~~] amount paid for such traffic infractions to the court
21 or other state government agency or county government plus an
22 administrative fee not to exceed [\$20] out-of-pocket expenses



1 documentd by receipts plus up to four hours of work multiplied
2 by Hawaii's prevailing minimum wage relating to research of
3 files and communications with the court, county government or
4 governmental agencies and lessee; provided, however, that every
5 rental agreement of a lessor adopting the policy must disclose,
6 at a minimum, in plain language and in at least ten-point bold
7 typeface print:

8 (1) The maximum estimated amount of the administrative fee
9 to be charged; and

10 (2) Language encouraging the lessee to pay directly to the
11 court, county government or other appropriate
12 government agency the [parking citation directly.]
13 applicable fines, costs, monetary assessments,
14 penalties, fees, surcharges, or other charges."

15 13. By repealing section 291-C.

16 ~~["§291C 168.5] Liability of lessee for parking citation.~~
17 ~~Notwithstanding any other law to the contrary, if the registered~~
18 ~~owner of record is the lessor of a rental or U drive motor~~
19 ~~vehiele, as defined in section 286-2 pursuant to a written lease~~
20 ~~agreement, the lessee at the time of the issuance of the parking~~
21 ~~citation shall be responsible for such summons or citation;~~
22 ~~provided, however, said lesser shall be responsible for such~~



1 ~~summons or citation if the lessor does not provide the court~~
2 ~~having jurisdiction over the summons or citation the name and~~
3 ~~address of the lessee within forty five days after a notice~~
4 ~~containing the date, time, and location of the violation and the~~
5 ~~license number of the vehicle is sent to lessor; provided~~
6 ~~further that the administrative judge of the court having~~
7 ~~jurisdiction over the citation or summons may waive the~~
8 ~~requirement of providing the name and address of the lessee by~~
9 ~~the lessor and impose an administrative fee of five dollars per~~
10 ~~citation on the lessor."]~~

11 SECTION 2. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 3. This Act shall take effect on July 1, 2007.



REPORT Title:

Traffic Infractions; Concurrent Trial; Citation Form

Description:

Expands scope of traffic infractions law to include infractions committed by minors. Permits concurrent trials and clarifies requirements. Clarifies citation form requirements. Authorizes use of electronic citations. Effective July 1, 2007. (SB1529 HD1)

