



THE JUDICIARY, STATE OF HAWAII

Testimony to the Twenty-Fifth Legislature, Regular Session of 2009
Senate Committee on Judiciary and Government Operations
The Honorable Brian T. Taniguchi, Chair
The Honorable Dwight Y. Takamine, Vice Chair

Monday, April 6, 2009, 10:00 a.m.
State Capitol, Conference Room 016

by
Iris Murayama
Deputy Chief Court Administrator
District Court of the First Circuit

Bill No. and Title: House Bill No. 869, H.D. 1, Relating to Rental Motor Vehicles

Purpose: Requires that the owner of a rental motor vehicle, upon notice that the rental motor vehicle has been involved in a traffic incident resulting in a violation, provide the court with the name and address of the lessee within 60, rather than 45, days of the mailing of the notice; requires the court to mail a copy of the summons or violation to the owner.

Judiciary's Position:

The Judiciary takes the position that no changes need to be made to the current language of Section 291D-3.5 of the Hawaii Revised Statutes.

The proposed changes would have severe impact on Judiciary operations by adding more manual work for staff, requiring program changes to the automated system, and, thereby, creating more backlog. The Judiciary prefers to seek other measures to address rental agency concerns and is open to further discussions with industry representatives.

Several representatives have already contacted the Judiciary and we are working on addressing several of their concerns and issues. The Judiciary is also exploring ways to address the backlog and improve search functions on CourtConnect (the Judiciary's online case information database) to alleviate some the problem areas.



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However, if the measure continues to move forward, we offer the following comments.

First, it is anticipated that there will be an increase in work demands on the already hard-pressed judicial staff and resources (due to staff shortages). There is no mechanism in place with the Department of Motor Vehicle (DMV) to distinguish the rental cars from any other registered vehicle. As such, staff will have to manually review and research each vehicle plate to determine if the registered owner(s) of the vehicle is a U-drive company. This labor-intensive process entails the Judiciary staff to physically go to the DMV to do the research. Manual intervention by staff would be necessary as the mail-out date is required to be part of the case history.

Second, extending the window of time from 45 days to 60 days for the rental or U-drive motor company (the lessor) to respond with the renter information to the courts will coincide with the automated referral of these cases to the collection agency. Currently, a person has 21 days to either pay the fine, court costs, and fees *or* request a hearing for a citation under HRS §291D-6. If a person fails to pay or communicate with the court, a default judgment is entered under HRS §291D-7(e) and the court is required to automatically generate a letter to the rental or U-drive motor company (the lessor). The lessor has 30 days to respond by paying or contesting the citation.

On the 31st day, a stopper is placed on a person's driver's license and/or motor vehicle registration under HRS §291D-10. After another 60 days, the judgment becomes the responsibility of the collection agency for collecting the fines, fees, and court costs. If the judgment remains outstanding on the 90th day after the default judgment is generated, it is electronically sent to the collection agency.

If the rental agency does not submit any type of paperwork until the 60th day, it may cause the Judiciary to become inundated with additional manual work processes, which may result in delays. This process would decrease the number of notices that each of the courts could print and thus negatively impact the collection of funds. This may also cause some cases to be referred to the Credit Bureau in error, thereby creating additional problems.

Last, we respectfully oppose the amendment added by the House Committee on Judiciary requiring the court to mail a copy of the summons or violation to the rental motor vehicle owner (page 2, lines 9-11). This requirement would increase the workload of our already-overburdened court staff. The responsibility of the citation is with the lesee, not the courts. The additional wording will require the courts to be the responsible party for the citation by noticing the lessor with a copy of the citation when the lessor fails to submit the name of the lesee. The court already sends the Notice of Default Judgment to lessor or registered owner when there is no response to the citation. As required by provisions of this current statute, the Notice of Default Judgment already contains the basic citation information (date time, location and license plate



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number). Therefore, if the lessor wishes to view the whole citation the lessor is able to purchase a copy of the citation, the same as everyone else wishing to have a copy of their citation.

Thank you for the opportunity to comment on this bill.

Honorable Brian Taniguchi, Chair
Committee on Judiciary
Hawaii State Senate

Hearing: April 6, 2009

Re: HB 869, HD1 Relating to Rental Motor Vehicles

Honorable Chair Taniguchi and Committee Members:

My name is Michael Oh and I am the legislative committee chair for Catrala-Hawaii. Catrala's membership consists of the major u-drive companies in Hawaii and the many businesses which support the industry.

Catrala supports this bill with amendments based on its recent discussions with representatives of the Judiciary. Please see attached proposed SD1. If you do not have time to consider the proposed amendments at this time please keep the bill alive so matters can be further discussed as part of the conference process.

Recently u-drive companies have been receiving citations dated back to 2006 and 2007 which makes it difficult for the companies to look up the names and addresses of the drivers and provide such information to the courts on a timely basis if at all. Further, recently u-drive companies apparently are being contacted about summons and citations for which they have no record of receiving notices of the summons and/or citations with required information as provided by law. This bill seeks to help correct these problems.

Members of our industry met with representatives of the Judiciary last week to try and resolve these problems. It appears a significant part of the problems relate to the Judiciary's old computer. While the Judiciary now has a new computer it is still playing catch up with old summons and citations back to December 2008 now being worked on and being brought current.

To give the Judiciary time to become current we suggest the effective date of this bill be set at January 1, 2010. In the meantime we shall continue to work with the Judiciary in trying to solve our ongoing problems and may seek relief from the court given difficulty in trying to find renters we may no longer be able to find or locate.

In addition to the delayed effective date of 2010, Catrala in its proposed attached SD1 agrees: 1) to leave certain deadlines for u-drives to 45 days and not extend it to 60 days; and 2) clarify that in addition to the u-drive company (lessor) also any registered owner of the vehicle should also be provided with the notice sent by the courts. Once the Judiciary clears its backlog by 2010 there should be no problems with the Judiciary mailing out future summons and citations and required notices within 60 days of the issuance of such summons and citations. This will seek to avoid the current problems where u-drives are faced with loss of time and man power in trying to search for old records that may no longer be available and also faced with paying additional fines and penalties because it cannot find some of its old records.

Your cooperation and understanding in passing this bill with Catrala's amendments is appreciated. Catrala is trying to be sensitive to the Judiciary's problems but given Catrala's losses of manpower, fines and penalties this bill is important to ensure that similar problems and losses do not occur in the future. Thank you for allowing us to testify.

HOUSE OF REPRESENTATIVES
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

H.B. NO. 869
H.D. 1
PROPOSED
SBI BY CATRALA

A BILL FOR AN ACT

RELATING TO RENTAL MOTOR VEHICLES.

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

SECTION 1. Upon notice that a rental motor vehicle has been involved in a traffic incident from which a violation results, the owner of the rental motor vehicle shall be responsible for the violation unless it provides a court of competent jurisdiction with the name and address of the lessee of the rental motor vehicle within forty-five days.

The purpose of this Act is to clarify and extend the notice provision by:

- (1) Requiring the court to mail a copy of the summons or violation to the rental motor vehicle owner;
- (2) Extending the period of time within which the owner must provide the lessee's name and address from forty-five days to sixty days; and
- (3) Clarifying that the period of time within which the owner must provide the lessee's name and address begins on the date of the mailing of the notice.

SECTION 2. Section 291D-3.5, Hawaii Revised Statutes, is amended to read as follows:

"[+]§291D-3.5[+] U-drive vehicles; traffic infractions. Notwithstanding any other law to the contrary, except those pertaining to the care and maintenance of the vehicle, if the registered owner of record is the lessor of a rental or U-drive motor vehicle, as defined in section 286-2, pursuant to a

written lease agreement, the lessee at the time of the issuance of the traffic infraction shall be responsible for ~~[such]~~ the summons or citation; provided that the lessor shall be responsible for ~~[such]~~ the summons or citation if the court mails a copy of the summons or citation to the lessor within sixty days of the issuance of the summons or citation and if the lessor does not provide the court having jurisdiction over the summons or citation the name and address of the lessee within ^{FORTY-FIVE} ~~sixty~~ days after the mailing of a notice to ^{AND ANY REGISTERED OWNERS OF THE VEHICLE} the lessor containing the date, time, and location of the violation and the license number of the vehicle; provided further that if requested by the lessor in writing within ^{FORTY-FIVE} ~~sixty~~ days of ~~[such]~~ the mailing of the notice of violation other than for parking citations, the administrative judge of the court having jurisdiction over the citation or summons shall waive the requirement of providing the name and address of the lessee by the lessor and impose an administrative fee of \$5 per citation on the lessor, plus costs and fees not to exceed \$10 in total per violation, notwithstanding section 607-4 or other ~~[sections of the]~~ law, county ordinance, or ~~[any]~~ rule to the contrary. In the case of parking citations, the administrative judge of the court having jurisdiction over the citation or summons may waive the requirement of providing the name and address of the lessee by the lessor and impose an administrative fee of \$5 per parking citation on the lessor, plus costs and fees not to exceed \$10 in total per ~~[such]~~ violation, notwithstanding section 607-4 or other ~~[sections of the]~~ law, county ordinance, or ~~[any]~~ rule to the contrary."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored. *JANUARY 1, 2010.*

SECTION 4. This Act shall take effect *July 1, 2010.*