

**"CHAPTER 291
TRAFFIC VIOLATIONS**

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Cross References

Adjudication of traffic infractions, see chapter 291D.
Nonresident violator compact, see chapter 291A.

Law Journals and Reviews

Intextication: Txtng Whl Drvng. Does the Punishment Fit the Crime? 32 UH L. Rev. 359 (2010).

"PART I. OPERATION

Law Journals and Reviews

Intextication: Txtng Whl Drvng. Does the Punishment Fit the Crime? 32 UH L. Rev. 359 (2010).

§291-1 [NEW] Definitions. As used in this part:

"Intoxicating liquor" means the same as the term is defined in section 281-1.

"Public street, road, or highway" includes the entire width, including berm or shoulder, of every road, alley, street, way, lane, trail, highway, bikeway, bridge, when any part thereof is open for use by the public, including any bicycle lane, bicycle path, bikeway, controlled-access highway, laned roadway, roadway, or street, as defined in section 291C-1, and any public highway, as defined in section 264-1.

"Scenic lookout" includes any area within or adjoining a public street, road, or highway which is intended for use by motorists as a stopping or parking area attendant to the enjoyment of the surrounding scenery or a view. [L 1986, c 171, §2; am L 2002, c 16, §14]

" **§291-2 [OLD] REPEALED.** L 1971, c 150, §3.

§291-2 Reckless driving of vehicle or riding of animals; penalty. Whoever operates any vehicle or rides any animal recklessly in disregard of the safety of persons or property is guilty of reckless driving of vehicle or reckless riding of an animal, as appropriate, and shall be fined not more than \$1,000 or imprisoned not more than thirty days, or both. [PC 1869, c

26, §1; am L 1907, c 68, §1; RL 1925, §4388; RL 1935, §6280; am L 1941, c 116, §1; RL 1945, §11701; RL 1955, §311-1; HRS §291-1; am L 1976, c 149, §1; am L 1977, c 162, §1; ren L 1986, c 171, §1; am L 1998, c 287, §2]

Cross References

Wild cattle or other dangerous animals, see §142-97.

Case Notes

Instructions to jury, see 22 H. 786.

Complaint held insufficient though substantially in language of statute. 25 H. 584.

Death ensuing from the operation of a vehicle in violation of this section may constitute manslaughter. 29 H. 7.

Instruction singling out "unavoidable accident". 32 H. 728.

Person convicted of heedless and reckless driving may not invoke double jeopardy when person is indicted for negligent homicide upon the death of the injured. 40 H. 331.

Charge in language of statute held insufficient. 41 H. 591.

Statute requires no more than ordinary negligence as a standard of guilt. 46 H. 245, 377 P.2d 688.

Substantial evidence test applies to review of evidence; this test not altered by HRCrP. 46 H. 245, 377 P.2d 688.

Standard not affected by point system law. 46 H. 345, 379 P.2d 592.

Section not limited to public property but applies to private property as well. 55 H. 505, 523 P.2d 315.

No obvious defect in an oral charge where the record demonstrates the charge tracks the statutory language, and the defendant clearly understood the accusation plus mounted a viable defense. 70 H. 314, 769 P.2d 1105.

Officer's additional observations, considered in concert with the reasonable inferences arising from defendant's screeching of tires, warranted an objectively reasonable suspicion that defendant had, at a minimum, committed the offense of reckless driving of a vehicle, in violation of this section; thus, officer's investigative stop was within the parameters of permissible police conduct. 102 H. 228, 74 P.3d 980.

The reckless state of mind definition under §702-206(3) (1993) applies to this reckless driving statute; in determining whether an identified risk is substantial and unjustifiable under §702-206(3), the nature and degree of the risk disregarded by the actor, the nature and purpose of the actor's conduct, and the circumstances known to the actor in acting must be weighed. 113 H. 321, 151 P.3d 802.

Where a reckless state of mind could be inferred from the circumstances to conclude that there was conscious awareness of a substantial and unjustifiable risk to the safety of others and property on the part of defendant, and deference must be given to the trier of fact with respect to questions of credibility and weight of the evidence, there was substantial evidence to find defendant guilty of reckless driving in violation of this section. 113 H. 321, 151 P.3d 802.

See 35 H. 324; 35 H. 396; 36 H. 537; 37 H. 591; 43 H. 54; 46 H. 315, 379 P.2d 594.

" **§291-3 REPEALED.** L 1971, c 150, §3.

" **§291-3.1 Consuming or possessing intoxicating liquor while operating motor vehicle or moped.** (a) No person shall consume any intoxicating liquor while operating a motor vehicle or moped upon any public street, road, or highway.

(b) No person shall possess, while operating a motor vehicle or moped upon any public street, road, or highway, any bottle, can, or other receptacle containing any intoxicating liquor which has been opened, or a seal broken, or the contents of which have been partially removed.

(c) Any person violating this section shall be fined not more than \$2,000 or imprisoned not more than thirty days, or both. [L 1981, c 152, pt of §1; am L 1986, c 171, §3; am L 1987, c 33, §7; am L 1998, c 287, §3; am L 2000, c 62, §1]

" **§291-3.2 Consuming or possessing intoxicating liquor while a passenger in a motor vehicle.** (a) No person shall consume any intoxicating liquor while a passenger in any motor vehicle or on any moped upon any public street, road, or highway.

(b) No person shall possess, while a passenger in a motor vehicle or on a moped upon any public street, road, or highway, any bottle, can, or other receptacle containing any intoxicating liquor which has been opened, or a seal broken, or the contents of which have been partially removed.

(c) Any person violating this section shall be guilty of a petty misdemeanor. [L 1981, c 152, pt of §1; am L 1986, c 171, §4; am L 1987, c 33, §8; am L 2000, c 62, §2]

" **§291-3.3 Storage of opened container containing intoxicating liquor or consumption at scenic lookout.** (a) No person shall keep in a motor vehicle, or on a moped when such vehicle or moped is upon any public street, road, or highway or at any scenic lookout, any bottle, can, or other receptacle containing any intoxicating liquor which has been opened, or a seal broken, or the contents of which have been partially

removed or fully removed, unless such container is kept in the trunk of the vehicle, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the vehicle is not equipped with a trunk. A utility or glove compartment shall be deemed to be within the area occupied by the driver and passengers.

(b) No person shall consume any intoxicating liquor at any scenic lookout.

(c) Subsection (a) shall not apply to a recreational or other vehicle not having a separate trunk compartment.

(d) Any person violating this section shall be guilty of a violation. [L 1981, c 152, pt of §1; am L 1986, c 171, §5; am L 1987, c 33, §9; am L 2000, c 62, §3]

Case Notes

Based on the clear language of subsection (b) and §287-3(a), and because subsection (b) does not describe a "moving violation" which arises from the "operation of a motor vehicle", the district court disregarded the statutory requirements and abused its discretion in determining that a violation of subsection (b) was properly included as part of defendant's traffic abstract. 123 H. 293 (App.), 233 P.3d 713 (2010).

Where there was nothing in the record to base a conclusion that defendant intentionally relinquished any right to challenge an improper listing of a subsection (b) violation on defendant's abstract, and there was nothing to suggest the traffic abstract was contemplated or should have been contemplated before defendant admitted to the violation, or that defendant had actual or constructive knowledge that defendant's admission could lead to the violation appearing on defendant's abstract, the district court abused its discretion in concluding that defendant waived defendant's defenses or rights related to the abstract. 123 H. 293 (App.), 233 P.3d 713 (2010).

" **[§291-3.4] Exceptions; consumption or possession of intoxicating liquor while a passenger in a motor vehicle, storage of opened container containing intoxicating liquor.** Sections 291-3.2 and 291-3.3 shall not apply to a motor vehicle for hire which has been issued a certificate of public convenience or necessity, 1-7 passenger classification by the public utilities commission so long as the motor vehicle has a barrier between the driver and the passengers sufficient to prevent intoxicating liquor from being passed between them and only the passengers behind the barrier consume the intoxicating liquor. [L 1985, c 89, §1]

" **§§291-4 to 4.5 REPEALED.** L 2000, c 189, §§30 to 33.

Cross References

For present provisions, see chapter 291E.

" **[\$291-4.6] Driving after license suspended or denied for noncompliance with an order of support; penalties.** (a) No person whose driver's license has been suspended, denied, or otherwise restricted pursuant to section 576D-13 shall operate a motor vehicle upon the public streets, roads, or highways of this State while the person's license remains suspended or denied.

(b) Any person convicted of violating this section shall be sentenced as follows:

(1) For a first offense, or any offense not preceded within a five-year period by a conviction under this section:

(A) A term of imprisonment at least three consecutive days but not more than thirty days;

(B) A fine not less than \$250 but not more than \$1,000; and

(C) License suspension or denial shall continue until written authorization of compliance is issued by the child support enforcement agency, the office of child support hearings, or the family court; and

(2) For an offense which occurs within five years of a prior conviction under this section:

(A) Thirty days' imprisonment;

(B) A fine of \$1,000; and

(C) License suspension or denial shall continue until written authorization of compliance pursuant to section 576D-13 [is] issued by the child support enforcement agency, the office of child support hearings, or the family court. [L 1997, c 293, §1]

" **§§291-5 to 7 REPEALED.** L 2000, c 189, §§34 to 36.

" **§291-8 Freight on motor cars; projection of, prohibited.** It shall be unlawful for any person driving, operating, or in charge of any motor car or truck used for the transportation of passengers, to carry or permit to be carried any baggage or freight on the motor car or truck in such manner that the same or any part thereof projects beyond the extreme width of the

motor car or truck. [L 1917, c 69, §1; RL 1925, §4406; RL 1935, §6296; RL 1945, §11709; RL 1955, §311-15; HRS §291-8]

" **§291-9 Freight; on running board.** No person shall carry on the running board of any motor car or truck used for the transportation of passengers any baggage, freight, or packages which project in any way beyond the running board, or which will cause the doors of the motor car or truck to be blocked so that the passengers therein have not free access to the same. [L 1917, c 69, §2; RL 1925, §4407; RL 1935, §6297; RL 1945, §11710; RL 1955, §311-16; HRS §291-9]

" **§291-10 Penalty.** Any person violating any of the provisions of sections 291-8 and 291-9 shall be fined not less than \$5 nor more than \$150. [L 1917, c 69, §3; RL 1925, §4408; RL 1935, §6298; RL 1945, §11711; RL 1955, §311-17; HRS §291-10]

" **§291-11 Riders and passengers under seven years of age on motorcycles and motor scooters prohibited; penalty.** (a) It shall be unlawful for any driver of a motorcycle or motor scooter to carry as a passenger or to permit to ride thereon any person under the age of seven years.

(b) A driver of a motorcycle or motor scooter shall be permitted to carry as a passenger or permit to ride thereon any person under the age of seven years; provided that the motorcycle or motor scooter:

- (1) Has three wheels;
- (2) Is powered by an electric motor;
- (3) Has a full body enclosed cab; and
- (4) Has a seat belt assembly or a child restraint system for the driver and passenger;

and the operator and passenger uses the seat belt or child restraint system pursuant to sections 291-11.5 and 291-11.6.

(c) A motorcycle or motor scooter driver who violates this section shall be fined not more than \$200. [L 1967, c 214, §20; HRS §291-11; am L 1968, c 48, §4; am L 1970, c 164, §3; am L 1994, c 120, §3]

Cross References

Riding on motorcycles, see §291C-152.

" **§291-11.5 Child passenger restraints.** (a) Except as otherwise provided in this section, no person operating a motor vehicle on a public highway in the State shall transport a child under eight years of age except under the following circumstances:

- (1) If the child is under four years of age, the person operating the motor vehicle shall ensure that the child is properly restrained in a child passenger restraint system that meets federal motor vehicle safety standards at the time of its manufacture; or
- (2) If the child is four years of age or older but less than eight years of age, the person operating the motor vehicle shall ensure that the child is properly restrained in a child safety seat or booster seat that meets federal motor vehicle safety standards at the time of its manufacture; except as provided in paragraph (3); and
- (3) If the child is four years of age or older but less than eight years of age, the person operating the motor vehicle shall be exempt from properly restraining the child in a child safety seat or booster seat that meets federal motor vehicle safety standards at the time of manufacture if the child is restrained by a seat belt assembly and:
 - (A) Over four feet and nine inches in height; or
 - (B) Over forty pounds and traveling in a motor vehicle equipped only with lap belts, without shoulder straps, in the back seat.

(b) Operators of the following motor vehicles shall be exempt from the requirements of this section: emergency, commercial, and mass transit vehicles. Further exemptions from this section may be established by the department of transportation pursuant to rules adopted under chapter 91.

(c) This section shall not apply if the number of persons in a vehicle exceeds the greater of the following:

- (1) The number of seat belt assemblies available in the vehicle; or
- (2) The number of seat belt assemblies originally installed in the vehicle;

provided that all available seat belt assemblies are being used to restrain a passenger, and those children not restrained by an approved child passenger restraint system, a child safety seat, a booster seat, or a seat belt assembly are in the back seat of the motor vehicle.

(d) In no event shall failure to restrain a child under the age of eight years as required by this section be considered contributory negligence, comparative negligence, or negligence per se.

(e) Violation of this section shall be considered an offense as defined under section 701-107(5) and shall subject the violator to the following penalties:

- (1) For a first conviction, the person shall:

- (A) Be fined not more than \$100;
 - (B) Be required by the court to attend a child passenger restraint system safety class conducted by the division of driver education; provided that:
 - (i) The class may include video conferences as determined by the administrator of the division of driver education as an alternative method of education; and
 - (ii) The class shall not exceed four hours;
 - (C) Pay a \$50 driver education assessment as provided in section 286G-3;
 - (D) Pay a \$10 surcharge to be deposited into the neurotrauma special fund; and
 - (E) Pay up to a \$10 surcharge to be deposited into the trauma system special fund if the court so orders;
- (2) For a conviction of a second offense committed within three years of any other conviction under this section, the person shall:
- (A) Be fined not less than \$100 but not more than \$200;
 - (B) Be required by the court to attend a child passenger restraint system safety class not to exceed four hours in length conducted by the division of driver education if the person has not previously attended such a class;
 - (C) Pay a \$50 driver education assessment as provided in section 286G-3 if the person has not previously attended a child passenger restraint system safety class conducted by the division of driver education;
 - (D) Pay a \$10 surcharge to be deposited into the neurotrauma special fund; and
 - (E) Pay up to a \$10 surcharge to be deposited into the trauma system special fund if the court so orders;
- (3) For a conviction of a third or subsequent offense committed within three years of any other conviction under this section, the person shall:
- (A) Be fined not less than \$200 but not more than \$500;
 - (B) Be required by the court to attend a child passenger restraint system safety class not to exceed four hours in length conducted by the division of driver education if the person has not previously attended such a class;

- (C) Pay a \$50 driver education assessment as provided in section 286G-3 if the person has not previously attended a child passenger restraint system safety class conducted by the division of driver education;
- (D) Pay a \$10 surcharge to be deposited into the neurotrauma special fund; and
- (E) Pay up to a \$10 surcharge to be deposited into the trauma system special fund if the court so orders.

(f) As used in this section:

"Emergency vehicle", "mass transit vehicle", "restrained", and "seat belt assembly" shall have the same meaning as provided in section 291-11.6.

"Commercial vehicle" shall be defined as any motor vehicle that is being used for the transportation of persons for hire, compensation, or profit. [L 1983, c 282, §1; am L 1989, c 30, §1; am L 1998, c 81, §3; am L 1999, c 18, §4 and c 56, §2; am L 2002, c 160, §5; am L 2005, c 74, §1; am L 2006, c 175, §2; am L 2008, c 231, §4; am L 2011, c 43, §7]

Revision Notes

The amendment made by L 2011, c 43, §7, to add the word "and" at the end of subsection (e)(1)(E) is deleted; "and" added at end of subsection (e)(2)(E).

" **§291-11.6 Mandatory use of seat belts, when, penalty.** (a) Except as otherwise provided by law, no person shall operate a motor vehicle upon any public highway unless the person is restrained by a seat belt assembly and all passengers in the front or back seat of the motor vehicle are restrained by a seat belt assembly or are restrained pursuant to section 291-11.5 if under eight years of age.

As used in this section:

"Restrained" means that the seat belt assembly is worn as it was designed and intended to be worn.

"Seat belt assembly" means the seat belt assembly that is required to be in the motor vehicle under any federal motor vehicle safety standard issued pursuant to Public Law 89-563, the National Traffic and Motor Vehicle Safety Act of 1966, as amended, unless original replacement seat belt assemblies are not readily available. If replacement assemblies are not readily available, seat belts of federally approved materials with similar protective characteristics may be used. Such replacement seat belt assemblies shall be permanently marked by

the belt manufacturer indicating compliance with all applicable federal standards.

(b) The passengers of the following motor vehicles shall be exempt from the requirements of this section: emergency and mass transit vehicles. Further exemptions from this section may be established by rules adopted by the department of transportation pursuant to chapter 91.

As used in this section, unless the context otherwise requires:

"Emergency vehicle" means an ambulance, a firefighting or rescue vehicle, or a police vehicle while on duty.

"Mass transit vehicle" means a bus, including a school bus (but excluding a charter or sightseeing service bus) with a gross vehicle weight rating that is over 10,000 pounds, whether publicly or privately owned, which provides service to the general public or provides special service on a regular or continuing basis.

(c) No person shall be guilty of violating this section if:

- (1) The person is in a motor vehicle that is not required to be equipped with a seat belt assembly under any federal motor vehicle safety standard unless the vehicle is in fact equipped with a seat belt assembly;
- (2) The person not restrained by a seat belt assembly is in a vehicle in which the number of persons exceeds the number of seat belt assemblies available in the vehicle or the number of seat belt assemblies originally installed in the vehicle, whichever is greater; provided that all available seat belt assemblies are being used to restrain passengers;
- (3) The person not restrained by a seat belt assembly has a condition that prevents appropriate restraint by the seat belt assembly; provided the condition is duly certified by a physician, a physician assistant, or an advanced practice registered nurse who shall state the nature of the condition, as well as the reason the restraint is inappropriate;
- (4) The person not restrained by a seat belt assembly is operating a taxicab or other motor vehicle used in performing a bona fide metered taxicab service which is regulated under chapter 269 or by county ordinance and is carrying passengers in the vehicle in the course of performing taxicab services; or
- (5) Otherwise exempted by rules adopted by the department of transportation pursuant to chapter 91.

(d) This section shall not be deemed to change existing laws, rules, or procedures pertaining to a trial of a civil

action for damages for personal injuries or death sustained in a motor vehicle accident.

(e) A person who fails to comply with the requirements of this section shall be subject to a fine of \$45 for each violation, a surcharge of \$10 which shall be deposited into the neurotrauma special fund, and may be subject to a surcharge of up to \$10 which shall be deposited into the trauma system special fund. [L 1985, c 235, §1; am L 1986, c 40, §1 and c 238, §1; am L 1987, c 266, §1; am L 1988, c 223, §1; am L 1997, c 60, §5; am L 2000, c 294, §1; am L 2002, c 160, §6; am L 2006, c 175, §3; am L 2008, c 231, §5; am L 2009, c 151, §5; am L 2013, c 73, §1; am L 2014, c 45, §4]

Attorney General Opinions

Operator of three-wheeled vehicle registered as a motorcycle is not required to wear a seat belt. Att. Gen. Op. 92-3.

Case Notes

Where defendant wore vehicle's Type 2 seat belt assembly, buckled, with lap belt running across defendant's lap and the shoulder harness tucked beneath defendant's left arm, defendant was not "restrained by a seat belt assembly" for purposes of this section (2005) under either the plain and obvious meaning of the statutory language or the intention of the legislature as expressed in that language. 111 H. 426, 142 P.3d 290.

Statute applied to defendant, where defendant argued that traffic statutes involved only applied to businesses and state vehicles; statute did not violate defendant's freedom of movement. 77 H. 222 (App.), 883 P.2d 644.

" **§291-12 Inattention to driving.** Whoever operates any vehicle negligently as to cause a collision with, or injury or damage to, as the case may be, any person, vehicle or other property shall be fined not more than \$500 or imprisoned not more than thirty days, or both, and may be subject to a surcharge of up to \$100, which shall be deposited into the trauma system special fund. [L 1971, c 150, §2; am L 1977, c 180, §1; am L 1998, c 287, §4; am L 2008, c 231, §6; am L 2016, c 231, §58]

Case Notes

Section not limited to public property but applies to private property as well. 55 H. 505, 523 P.2d 315.

Evidence of failure to observe statutory requirements in changing lanes and in making left turn held under the circumstances to be sufficient to support finding of negligence in violation of section. 57 H. 533, 560 P.2d 114.

In order to convict under this section, the conduct and result elements all must be proven, along with the requisite state of mind; the "alternative means" theory of this section expressed by the intermediate court of appeals in Momoki rejected. 118 H. 1, 185 P.3d 186 (2008).

In order to convict under this section, the prosecution has the burden of proving beyond a reasonable doubt that defendant (1) operated a vehicle "without due care or in a manner" (conduct) (2) "as to cause a collision with, or injury or damage to, as the case may be, any person, vehicle or other property" (result of conduct), and that defendant did so (3) intentionally, knowingly, or recklessly. 118 H. 1, 185 P.3d 186 (2008).

The term "collision", in this section, should carry its common meaning, and not the more expansive technical definitions used in some contexts; under such a construction, "collision" generally refers to "an automobile coming in contact with some other vehicle or some perpendicular object obstructing the course of its progress"; where defendant's front truck wheels were stuck hanging one foot over the parking lot edge, defendant's vehicle was not involved in a collision as a matter of law and defendant thus could not be convicted under this section. 118 H. 1, 185 P.3d 186 (2008).

To the extent that the "without due care" designation fails to map the state of mind requirement described as "negligently" in the Hawaii penal code, no state of mind is clearly specified by this section; thus, the default states of mind of "intentionally", "knowingly", or "recklessly", would be required as to each element of this section. 118 H. 1, 185 P.3d 186 (2008).

" **[§291-13] Traffic laws apply to persons driving mopeds.** Every person driving a moped upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle under this chapter except as to the special provisions of this part and except as to those provisions of this chapter which by their nature can have no application. [L 1981, c 24, §1]

Cross References

Special rules for mopeds, see §§291C-191 to 207.

" **§291-14 Pickup trucks; passenger restrictions.** (a) No person shall stand in the bed or load-carrying area of any motor vehicle commonly known as a pickup truck while the vehicle is in operation. No operator of any pickup truck shall operate the vehicle with a passenger seated in the bed or load-carrying area of the vehicle unless:

- (1) There is no seating available in the cab of the vehicle;
- (2) The side racks of the vehicle are securely attached and the tailboard or tailgate is securely closed;
- (3) Every passenger in the bed or load-carrying area of the vehicle is seated on the floor and does not attempt to control unlash cargo.

(b) This section shall not apply to persons or corporations operating a business or businesses that serve the public, who or which are subject to the jurisdiction, supervision, and regulations prescribed by state agencies or departments nor to their agents or employees when engaged in the business of such persons or corporations.

(c) No operator of any pickup truck may operate the vehicle with any passenger twelve years of age or under in the bed or load-carrying area of the vehicle, unless one of the following applies:

- (1) An emergency exists that threatens the life of the passenger being transported in the bed or load-carrying area of the vehicle; or
- (2) The vehicle is being operated in parades, caravans, or exhibitions which are officially authorized or otherwise permitted by law.

(d) Any person who violates this section shall be subject to a fine of \$25 for each violation; provided that any person who violates subsection (c) shall be subject to a fine of \$50 for each separate violation.

(e) As used in this section, "pickup truck" means a light truck that has a cab on the front part of the vehicle covering the driver's seat and an open bed behind the cab designed primarily to transport property or cargo, with sides and a tailgate to retain the contents within the confines of the bed, and has a maximum gross vehicle weight rating (GVWR) of 11,000 pounds or less. [L 1989, c 167, §1; am L 1990, c 122, §1; am L 1997, c 60, §6 and c 105, §1]

" **[§291-15] Trauma system surcharge.** (a) In addition to any other civil penalties ordered by the court, a person who violates any offense under this part may be ordered to pay a trauma system surcharge, provided that:

- (1) The maximum of which may be \$10 if the violator is not already required to pay a trauma system surcharge pursuant to the violation of the offense; and
- (2) The maximum of which may be \$100 if the violation is an offense under section 291-12.

(b) The surcharge shall not be ordered when the court determines that the defendant is unable to pay the surcharge.

(c) The person shall pay the surcharge to the clerk of the court. The surcharge shall be deposited with the state director of finance who shall transmit the surcharge to the trauma system special fund pursuant to section 321-22.5. [L 2008, c 231, §1]

" **[\$291-16] Safe routes to school program surcharge.** (a) In addition to any other civil penalties ordered by the court, a person who violates any provision under this part shall be ordered to pay a safe routes to school program surcharge of \$10.

(b) The person shall pay the surcharge to the clerk of the court. The surcharge shall be deposited with the director of finance who shall credit the surcharge to the safe routes to school program special fund established under section 291C-4. [L 2012, c 317, §1]

" **§291-17 Mobile electronic devices; use while operating a commercial motor vehicle prohibited.** (a) No person with a commercial driver's license shall use a mobile electronic device, including using the mobile electronic device for texting as defined under section 286-231, while operating a commercial motor vehicle, as defined under section 286-2.

(b) The use of a mobile electronic device for the sole purpose of making a "911" emergency communication shall be an affirmative defense to this section.

(c) The following persons shall be exempt from the provisions of subsection (a):

- (1) Emergency responders using a mobile electronic device while in the performance and scope of their official duties;
- (2) Drivers using two-way radios while in the performance and scope of their work-related duties and who are operating motor carrier vehicles as defined in section 286-201; and
- (3) Drivers holding a valid amateur radio operator license issued by the Federal Communications Commission and using a half-duplex two-way radio.

(d) Any person who is convicted of violating subsection (a) shall be fined not more than \$2,750 in addition to the driving disqualification of section 286-240(e).

(e) As used in this section:

"Emergency responders" means any firefighters, emergency medical technicians, mobile intensive care technicians, emergency management workers, police officers, and federal and state law enforcement officers.

"Mobile electronic device" means any handheld or other portable electronic equipment recognized by the citing officer or other witness to be capable of providing wireless or data communications, or both, between two or more persons or of providing amusement, including but not limited to a cellular phone, text messaging device, paging device, personal digital assistant, laptop computer, video game, or digital photographic device, or any device to input, write, send, receive, or read text, but does not include any equipment installed in a commercial motor vehicle for the purpose of providing audio, navigation, or emergency assistance to the operator of the commercial motor vehicle or video entertainment to the passengers in the rear seats of the commercial motor vehicle. A "two-way radio" or Private Land Mobile Radio System as defined by title 47 of the Code of Federal Regulations, part 90, when used for business purposes, shall not be considered to be a "mobile electronic device".

"Operate a commercial motor vehicle" means to drive or assume actual physical control of a commercial motor vehicle upon a public way, street, road, or highway in the State.

"Texting" means the same as defined under [section] 286-231.

"Use or using a mobile electronic device" means holding a mobile electronic device while operating a commercial motor vehicle. [L 2012, c 311, §1; am L 2014, c 111, §28]

"PART II. EQUIPMENT

Cross References

Neighborhood electric vehicle requirements, see §291C-134.

Street rod vehicle requirements, see §286-26.5.

§291-21 REPEALED. L 1971, c 150, §3.

" **§291-21.3 Definitions.** As used in this chapter:

"Flatrack" means an open-sided platform mounted on a chassis without motive power designed to be drawn by a motor vehicle and used to carry property.

"FMVSS" means the Federal Motor Vehicle Safety Standards.

"Glazing material" means any glass, plastic, or like material, manufactured for use in or on a vehicle, including but

not limited to windshields, window openings, or interior partitions.

"Light transmittance" means the ratio of the amount of total visible light, expressed in percentages, which is allowed to pass through the product or material, including the glazing material, to the amount of total visible light falling on the product or material and the glazing material.

"Sun screening devices" means products or materials used or designed to be used in conjunction with glazing materials for the purpose of reducing the effects of the sun, including, but not limited to tinting films and perforated sun screening materials, but excluding louvered materials. [L 1983, c 294, pt of §2; am L 1986, c 188, §1; am L 1994, c 30, §1]

" **§291-21.5 Regulation of motor vehicle sun screening devices; penalty.**

(a) No person shall operate, permit the operation of, cause to be operated, or park any motor vehicle on a public highway if the glazing material of the motor vehicle:

- (1) Does not meet the requirements of the Federal Motor Vehicle Safety Standards 205 in effect at the time of its manufacture; or
- (2) Is used in conjunction with sun screening devices not exempted from this section by subsection (d) hereof.

(b) No person shall install, mount, adhere, affix, or use any sun screening device or combination of devices in conjunction with the glazing material of a motor vehicle which does not meet the requirements of the Federal Motor Vehicle Safety Standards 205 in effect at the time of the glazing material's manufacture except as provided in this section. Any person who violates this section shall be liable for the removal of any sun screening device applied contrary to this section.

(c) A safety inspection required under section 286-25 shall include a test to ensure that the glazing material and any sun screening devices meet the requirements specified in this section.

(d) This section shall not apply to:

- (1) Rearview mirrors;
- (2) Adjustable nontransparent sun visors which are mounted forward of the side windows and are not attached to the glazing material;
- (3) Signs, stickers, or other materials which are displayed in a seven-inch square in the lower corner of the windshield farthest removed from the driver or signs, stickers, or other materials which are displayed in a five-inch square in the lower corner of the windshield nearest the driver;
- (4) Rear trunk lid handle or hinges;

- (5) Window wipers and window wiper motors;
- (6) Transparent sun screening film materials which are installed, affixed, or applied along the top edge of the windshield so long as such materials do not encroach upon the AS-1 portion of the windshield as provided by Federal Motor Vehicle Safety Standard 205 or no lower than four inches below the top of the windshield, when measured from the middle point of the bottom edge of the top windshield moulding if no AS-1 markings can be found in the left or right upper margin of the windshield;
- (7) Sun screening devices for front side wing vents and windows which, when used in conjunction with the glazing material have a light transmittance of no less than thirty-five per cent plus or minus six per cent;
- (8) Sun screening devices for side windows necessary for driving visibility which are to the rear of the driver and for rear windows necessary for driving visibility which, when used in conjunction with the glazing material, have a light transmittance of no less than thirty-five per cent plus or minus six per cent;
- (9) Side windows which are to the rear of the driver and rear windows on vans, minivans, trucks, or buses; provided that the vehicles are equipped with rearview mirrors on both sides;
- (10) Privacy drapes, curtains, or blinds, or any combination, installed on the interior of motor homes; or
- (11) Transparent sun screening materials, when applied to the AS-1 portion of the windshield, which meets the requirements of Federal Motor Vehicle Safety Standard 205.
 - (e) Any person who violates this section shall be fined:
 - (1) Not less than \$250 or more than \$500 for each separate offense if the person is the owner of the motor vehicle which is in violation; and
 - (2) Not less than \$500 nor more than \$1,000 for each separate offense if the person or business entity is the installer of any sun screening device which does not meet the requirements of this section. The installer shall also reinstall sun protective devices which comply with this section, free of charge, or reimburse the motor vehicle owner for the cost of installing sun protective devices by another installer which comply with this section.

The receipt from the installer in the possession of the person in the motor vehicle at the time of the issuance of the citation

shall be prima facie evidence of the identity of the installer. The installer shall issue a certificate to the vehicle owner at the time the sunscreen device is installed certifying that the device complies with law. The certificate shall be stored in the motor vehicle at all times. [L 1983, c 294, pt of §2; am L 1986, c 188, §2; am L 1989, c 54, §1; am L 2004, c 227, §1; am L 2010, c 103, §1]

" **§291-22 Regulation of exhaust pipe and muffler.** It shall be unlawful for any person to drive upon the public highways any motor scooter, as defined in section 286-2, the exhaust pipe or muffler of which has been so changed from the factory design as to increase the volume or audibility of the explosions within the motor thereof. [L 1941, c 140, §2; RL 1945, §11718; RL 1955, §311-24; HRS §291-22; am L 1979, c 105, §28]

" **§291-23 Penalty.** Whoever is convicted of violating any of the provisions of section 291-22 shall be fined not more than \$100. [L 1941, c 140, §4; RL 1945, §11720; RL 1955, §311-26; HRS §291-23; am L 1978, c 222, §6]

" **§291-24 Motorcycles and mopeds, noisy mufflers; penalty.**
(a) Every motorcycle and moped moving under its own power on a public highway shall at all times be equipped with a muffler in constant operation to prevent any excessive or unusual noise and no such muffler or exhaust system shall be equipped with a cutout, bypass, or similar device. No person shall modify the exhaust system of a motorcycle or a moped in a manner which will amplify or increase the noise emitted by the motor of such motorcycle or moped above that emitted by the muffler originally installed on the motorcycle or moped except a motorcycle or moped that:

- (1) Has three wheels;
- (2) Is powered by an electric motor;
- (3) Has a full body enclosed cab; and
- (4) Has a seat belt assembly or a child restraint system for the driver and passenger;

shall not be required to be equipped with a muffler.

(b) As used in this section, "muffler" means a device consisting of a series of chambers or baffle plates, or other mechanical design, for the purpose of receiving exhaust gas from the engine of the motorcycle or moped, and being effective in reducing noise.

(c) Whoever violates this section shall be fined not more than \$100. [L 1949, c 21, §1; RL 1955, §311-27; HRS §291-24; am L 1978, c 222, §7; am L 1986, c 189, §1; am L 1994, c 120, §4]

" **[§291-24.5] Motor vehicle muffler.** (a) No person shall use on a public highway, sell, alter or install a muffler which will noticeably increase the noise emitted by a motor vehicle above that emitted by the vehicle as equipped from the factory.

(b) Any violation of this section shall constitute a violation and shall be enforceable by police officers. The fine for this violation shall be not less than \$25 nor more than \$250 for each separate offense. Any person who violates the provisions of this section may be issued a summons or citation for such violation. [L 1977, c 79, §1]

" **§291-24.6 Motor vehicle alarm systems.** (a) "Motor vehicle alarm system" means any device that is designed or used for the detection of an unauthorized entry into a motor vehicle, or for alerting others to the commission of an unlawful act, or both, and that emits a sound when activated.

(b) If a motor vehicle alarm system installed in a motor vehicle is activated and emits a sound for more than five continuous minutes, the registered owner of the motor vehicle shall be fined not more than \$100; provided that after the third violation within a five-year period, the fine shall be:

- (1) \$250 for the fourth violation;
- (2) \$375 for the fifth violation; and
- (3) \$500 for a sixth or subsequent violation.

(c) An offense under this section shall be a violation for which a police officer shall issue a summons or citation to the registered owner of the vehicle. [L 1984, c 104, §1; am L 2004, c 102, §1; am L 2005, c 74, §2]

" **§291-25 Lights for motor vehicles, motorcycles, motor scooters, motorized bicycles.** (a) From thirty minutes after sunset until thirty minutes before sunrise, every motor vehicle moving upon any public highway shall carry at the front thereof at least two lighted head lamps which shall display white lights of equal candle power. The head lamps shall be securely mounted, not less than twenty-two inches nor more than fifty-four inches above the road surface when measured to the head lamp center, on a rigid part of the vehicle designed specifically for head lamp installation by the manufacturer, and so arranged, adjusted, and constructed that, when the motor vehicle is fully loaded, any pair of headlights under the conditions of use shall produce a light sufficient to reveal any person, vehicle, or substantial object on the highway straight ahead of the motor vehicle for a distance of two hundred feet.

The light when measured at a distance of one hundred feet directly in front of the motor vehicle, and at a height of sixty inches above the level surface on which the motor vehicle

stands, shall not exceed two thousand four hundred apparent candle power, nor shall this candle power be exceeded at a greater height than sixty inches.

When measured at a distance of one hundred feet ahead of the motor vehicle and seven feet or more to the left of the axis of the same, and at a height of sixty inches above the level surface on which the motor vehicle stands, the light shall not exceed eight hundred apparent candle power.

(b) During the time specified in subsection (a), every motorcycle, motor scooter, or motorized bicycle while moving on a public highway shall carry, at the front thereof, at least one lighted headlight which shall give a light of such power and so distributed as provided in subsection (a); provided that any motorcycle, motor scooter, or motorized bicycle with a side car or similar contrivance attached shall, in addition to the foregoing required light, carry on the side car or similar contrivance a lighted lamp visible from a point at least two hundred feet ahead of the vehicle. Any headlight required by this subsection shall display white light and shall be securely mounted, not less than twenty-four inches nor more than fifty-four inches above the road surface when measured to the headlight's center on a rigid part of the vehicle designed specifically for installation of a light by the manufacturer. [RL 1945, pt of §11707; am L 1953, c 260, §1; RL 1955, §311-7; HRS §291-25; am L 1985, c 105, §2; am L 2007, c 7, §2]

" **§291-26 Testing lights.** All devices or adjustments used in connection with lights upon motor vehicles to enable the same to comply with this chapter, shall not be used until approved by the chief of police or the chief of police's authorized subordinate of the county wherein the vehicle is registered.

The cost of testing any device shall be borne by the person submitting the same; provided that this cost shall not exceed the sum of \$50.

No person shall drive, operate, or propel a motor vehicle without an approved device or adjustment upon its headlights unless the headlights have been tested and approved by the chief of police or the chief of police's authorized subordinate of the county wherein the vehicle is registered. The cost of testing shall be borne by the person offering the same for test as provided in this section. [RL 1945, pt of §11707; RL 1955, §311-8; HRS §291-26; gen ch 1985]

" **§291-27 REPEALED.** L 1974, c 133, §7.

" **§291-28 Lights for loads.** In any case where a vehicle is loaded with any material in such a manner that any portion of

the load extends toward the rear four feet or more beyond the rear of the bed or body of the vehicle, there shall be displayed at the extreme end of the load, at the times and under the conditions hereinbefore specified, in addition to the ordinary rear or tail light hereinbefore required to be displayed on the vehicle, a red light plainly visible under ordinary atmospheric conditions at least two hundred feet from the rear; provided that at other times while the vehicle is upon the public highway, a red flag or cloth not less than sixteen inches square shall be displayed at the extreme rear of the load. [RL 1945, pt of §11707; RL 1955, §311-10; HRS §291-28]

" **§291-29 Lights for other vehicles.** All vehicles other than those specified in section 291-25 shall during the time mentioned in such section when upon the public highway, carry a lighted light on the extreme width of each side so arranged that a light from the lamps shall be visible in every direction at least two hundred feet. [RL 1945, pt of §11707; RL 1955, §311-11; HRS §291-29; am L 1979, c 105, §29]

" **§291-30 Spotlights.** No spotlight shall be used in any city, town, or village, and no spotlight shall be so used as to shine in the eyes of the drivers of approaching passing vehicles, and when used every spotlight shall be turned off not less than two hundred feet from an approaching vehicle. [RL 1945, pt of §11707; RL 1955, §311-12; HRS §291-30]

" **§291-31 Tail lights on vehicles, motorcycles and motor scooters.** (a) From thirty minutes after sunset to thirty minutes before sunrise, at any time while a vehicle, other than a bicycle, motorcycle or motor scooter, is operated on any public highway, there shall be displayed at the rear thereof at least two tail lights, spaced as far apart as practicable, which shall display red lights visible not less than two hundred feet from the rear thereof; provided that vehicles manufactured prior to 1968 originally equipped with a single tail light assembly need only display a single tail light; and where a registration number plate is required by law to be carried on the rear thereof, the same shall be illuminated by a white light in such manner that the registration number thereon can be plainly distinguished at a distance of not less than fifty feet from the rear thereof.

(b) From thirty minutes after sunset to thirty minutes before sunrise, at any time while a motorcycle or motor scooter is operated on any public highway, there shall be displayed at the rear thereof, a tail light which shall display a red light visible not less than two hundred feet from the rear thereof;

and if a registration number plate is required by law to be carried on the rear of the motorcycle or motor scooter, the same shall be illuminated by a white light in such manner that the registration number thereon can be plainly distinguished at a distance of not less than fifty feet from the rear thereof. [RL 1945, pt of §11707; RL 1955, §311-13; HRS §291-31; am L 1984, c 125, §1]

Cross References

Bicycle lights, see §291C-147.

Moped lights, see §291C-200.

" **§291-31.5 Blue lights prohibited for motor vehicles, motorcycles, motor scooters, bicycles, mopeds.** (a) No person shall knowingly operate, affix or cause to be affixed, display, or possess any lamp, reflector, or illumination device that appears to be the color blue, or colors blue and red, upon any motor vehicle, motorcycle, motor scooter, bicycle, or moped except for:

- (1) County law enforcement vehicles authorized and approved by the chief of police of the county in which the vehicle is operated;
- (2) Department of public safety law enforcement vehicles with blue and red lamps, reflectors, or illumination devices authorized and approved by the director of public safety;
- (3) Department of land and natural resources division of conservation and resources enforcement vehicles with blue and red lamps, reflectors, or illumination devices authorized and approved by the chairperson of the board of land and natural resources; or
- (4) Department of transportation division of harbors law enforcement vehicles with blue and red lamps, reflectors, or illumination devices authorized and approved by the director of transportation.

This prohibition shall not apply to factory-installed instrument illumination.

(b) Any violation of this section shall be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both. [L 1985, c 182, §1; am L 1991, c 210, §1; am L 2007, c 109, §1; am L 2016, c 99, §1]

" **§291-32 Penalties.** (a) The use or operation of any motor vehicle not equipped with lights in conformity with sections 291-25 to 291-31 upon the public highways is prohibited during the period specified in section 291-25(a).

(b) Whoever violates any of the provisions of this section, or of sections 291-25 to 291-31, shall be fined not more than \$10. Each violation shall be deemed a separate offense, and a subsequent violation of the same provision within a one-year period shall be subject to twice the fine imposed upon the prior conviction therefor. [L 1892, c 28, §§1, 2; am L 1903, c 8, §2; am L 1909, c 27, §1; RL 1925, §4400; am L 1929, c 143, §2; RL 1935, §6290; RL 1945, §11708; RL 1955, §311-14; HRS §291-32; am L 2005, c 74, §3]

" **§291-33 Projections on face of wheels prohibited.** There shall not be operated or moved upon any public road, street, or highway within the State, any vehicle, motor vehicle, or other power vehicle the face of the wheels of which are fitted or equipped with flanges, ribs, clamps, cleats, lugs, chains, spikes or other projections, other than rubber blocks, destructive to the road surfaces. This provision applies to all rings or flanges upon guiding or steering wheels of such vehicles, but it shall not be so construed as to prevent (1) the use of ordinary detachable tire or skid chains, or (2) the use of studded snow tires on either the Mauna Kea access road above Hale Pohaku or on any other road within the Mauna Kea Science Reserve leased to the University of Hawaii.

This section shall not apply to traction engines, tractors, or other vehicles of the tracklaying type when the portions of the movable tracks in contact with the roadway surface present plane surfaces of sufficient area to prevent damage thereto. [L 1941, c 216, pt of §1; RL 1945, §11712; RL 1955, §311-18; HRS §291-33; am L 1991, c 59, §1]

" **§291-34 Size of vehicles; width, height, and length.** (a) Width. No motor vehicle or other power vehicle having an overall width greater than nine feet, including load, shall be operated or moved upon any public road, street, or highway within the State, except as hereinafter provided.

(b) Height. No motor vehicle or other power vehicle having an overall height greater than fourteen feet, including load, shall be operated or moved upon any public road, street, or highway within the State except as hereinafter provided; and provided further that no motor vehicle or other power vehicle shall be operated under or through any bridge or other highway structure if the height of the motor vehicle or other power vehicle exceeds the posted height for the bridge or other highway structure.

(c) Length:

(1) No single motor vehicle or other power vehicle having a total overall length greater than forty-five feet,

including load, shall be operated or moved upon any public road, street, or highway within the State, except as provided in this subsection;

- (2) No truck-tractor and semitrailer having a total overall length greater than sixty-five feet, including load, shall be operated or moved upon any public road, street, or highway, other than interstate highways and certain qualifying federal aid highways as designated by the director of transportation, within the State, except as provided in this subsection; provided that:
 - (A) For truck-tractors and semitrailers used for agricultural purposes and public utilities maintenance and service vehicles, the total combined length of the truck-tractor and semitrailer or public utility maintenance and service vehicle shall not exceed sixty-five feet in length;
 - (B) The length of the semitrailer shall not exceed forty-eight feet in length; and
 - (C) The length of an articulated bus for public transit purposes shall not exceed eighty-two feet in length, and shall not consist of more than three units;
- (3) No combination of motor vehicles or other power vehicles coupled together shall consist of more than two units and no combination of vehicles having a total overall length greater than sixty-five feet, including load, shall be operated or moved upon any public road, street, or highway other than interstate highways and certain qualifying federal aid highways as designated by the director of transportation, within the State, except as provided in this subsection. A truck-tractor and semitrailer shall be regarded as a single unit when determining the number of units in a combination;
- (4) No motor vehicle, self-propelled construction or farm equipment, trailer, or semitrailer shall be operated upon any public road, street, or highway within the State if it is carrying or otherwise has projecting to the front or rear, a load, boom, mast, or other projecting structure or attachment unless:
 - (A) With respect to self-propelled construction or farm equipment:
 - (i) The length of the equipment measured on a horizontal axis, including the projection, is not greater than forty-five feet;

- (ii) The projection is either held securely in place or is controlled by the driver or an operator;
 - (iii) The projection does not obstruct the driver's vision;
 - (iv) The projection does not impair the driver's ability to control the equipment;
 - (v) The projection beyond the front tires is at least seven feet above the roadway surface; and
 - (vi) The projection does not extend more than four feet past the extremity of the piece of equipment, or if it extends more than four feet, an escort vehicle is provided by the owner or operator either to the front or to the rear of the projection to call attention to the projection; or
- (B) With respect to a motor vehicle, or a motor vehicle with attached trailer or semitrailer:
- (i) The overall length of a motor vehicle including the projection, is not greater than forty-five feet or the overall length of the motor vehicle with attached trailer or semitrailer, including the projection, is not greater than sixty feet except that this limitation on a motor vehicle with attached trailer or semitrailer, including the projection, shall not be applicable on interstate highways and certain qualifying federal aid highways, as designated by the director of transportation;
 - (ii) The projection is either held securely in place or is controlled by the driver or an operator;
 - (iii) The projection does not obstruct the driver's vision;
 - (iv) The projection does not impair the driver's ability to control the equipment;
 - (v) The projection beyond the front tires is at least seven feet above the roadway surface; and
 - (vi) The projection does not extend more than four feet past the extremity of the trailer or semitrailer, or, if it extends more than four feet, an escort vehicle is provided by the owner or operator either to the front or

to the rear of the projection to call attention to the projection;

- (5) The limitations in this subsection upon length shall not apply to vehicles transporting pipe, poles, timbers, reinforcing steel, structural steel, or other objects of a structural nature that cannot be readily dismembered; provided that when transported by night every vehicle shall be equipped with a sufficient number of clearance lamps upon the extreme ends of any projecting load to clearly mark the dimensions of the load. [L 1941, c 216, pt of §1; RL 1945, §11713; RL 1955, §311-19; HRS §291-34; am L 1969, c 37, §1; am L 1971, c 133, §1; am L 1978, c 32, §1; am L 1980, c 76, §1; am L 1981, c 61, §1; am L 1983, c 188, §1; am L 1991, c 26, §1; am L 1994, c 28, §1; am L 1995, c 115, §1; am L 1999, c 184, §1; am L 2009, c 83, §1]

" **§291-35 Gross weight, axle, and wheel loads.** No motor vehicle or other power vehicle or combination of such vehicles equipped wholly with pneumatic tires, which has a total gross weight, including vehicle and load, an axle load, or a wheel load in excess of the limits set forth in this section shall be operated or moved upon any public road, street, or highway within the State; provided that the maximum gross weight, axle loads, and wheel loads allowed under this section shall be inapplicable when its application would adversely affect the receipt of federal funds for highway purposes; and provided further that no vehicle or combination of vehicles shall be operated on or moved over any bridge or other highway structure if the total gross weight, including vehicle and load, exceeds the posted maximum gross load limitation for the bridge or other highway structure.

- (1) The total gross weight, in pounds, imposed on any public road, street, or highway within the State by any group of two or more consecutive axles, on a vehicle or combination of vehicles shall not exceed the following when the distance between the first and last axles of the group under consideration is:
 - (A) Forty inches or less, the weight imposed shall not exceed twenty-two thousand five hundred pounds.
 - (B) More than forty inches but not more than eight feet, the weight imposed shall not exceed thirty-four thousand pounds. This grouping of two consecutive axles shall be known as tandem axle.
- (2) The total gross weight, in pounds, imposed on interstate highways within the State by any group of

two or more consecutive axles, on a vehicle or combination of vehicles shall not exceed that resulting from application of the formula:

$$W = 500 (LN/(N-1) + 12N + 36)$$

when the distance between the first and last axles of the group under consideration is over eight feet and where W = maximum weight in pounds carried on any group of two or more axles computed to the nearest 500 pounds,

L = Distance in feet between the extremes of any group of two or more consecutive axles, to the nearest foot, and

N = Number of axles in group under consideration; provided that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more and provided also that the overall gross weight does not exceed 80,000 pounds.

- (3) The total gross weight, in pounds, imposed on any public road, street, or highway, other than interstate highways, within the State by a vehicle or combination of vehicles shall not exceed that determined by the formula:

$$W = 900(L + 40)$$

when the distance between the first and last axles of the group under consideration is over eight feet and where W = maximum weight in pounds carried on any group of two or more axles computed to the nearest 500 pounds and

L = Distance in feet between the extremes of any group of two or more consecutive axles, to the nearest foot;

provided also that the overall gross weight does not exceed 88,000 pounds.

- (4) No vehicle or combination of vehicles shall be used or operated on any public road, street, or highway within the State (A) with a load upon any single or tandem axle or combination of axles which exceeds the carrying capacity of the axles specified by the manufacturer, or (B) with a total weight in excess of its designed capacity as indicated by its designed gross vehicle weights or gross combination weights.
- (5) The total gross weight imposed upon the public road, street, or highway by any single axle shall not exceed twenty-two thousand five hundred pounds. For the purpose of this section, axles placed in the same

transverse plane and are spaced forty inches or less apart, shall be considered as one axle.

- (6) The total gross weight imposed upon the public road, street, or highway by any one wheel, either single or dual mounting, shall not exceed eleven thousand two hundred and fifty pounds.
- (7) The director of transportation, in the case of state highways, or the county engineer, in the case of county roads and streets, may place and maintain signs to limit the gross weight of a vehicle or combination of vehicles traveling over a bridge or other highway structure in the interest of public safety when it is determined through engineering investigation and analysis that the theoretical load carrying capacity of the bridge or structure is less than the maximum gross vehicular weight allowed by this chapter. In determining the weight limits and in posting the weight limit signs, the director or the county engineer need not comply with rulemaking provisions of chapter 91; provided that if any person objects to the weight limits, the person may object to the rule as provided in chapter 91. [L 1941, c 216, pt of §1; am L 1943, c 76, §1; RL 1945, §11714; am L 1949, c 94, §1; RL 1955, §311-20; am L 1957, c 251, §1; am L Sp 1959 2d, c 1, §26; am L 1967, c 48, §1; HRS §291-35; am L 1970, c 168, §1; am L 1971, c 75, §1; am L 1977, c 184, §1; am L 1980, c 281, §1; am L 1986, c 42, §1; am L 1989, c 311, §1; am L 1990, c 32, §1; am L 1993, c 82, §1]

" **§291-35.1 Regulation of bumper height.** Maximum bumper heights of motor vehicles shall be determined by the weight category of gross vehicle weight rating (GVWR) as measured from a level surface to the highest point on the bottom of the bumper. Maximum heights are as follows:

Gross Vehicle Weight Rating	Front	Rear
Passenger vehicles	22 inches	22 inches
4,500 lbs. and under	29 inches	29 inches
4,501 lbs. to 7,500 lbs.	33 inches	33 inches
7,501 lbs. to 10,000 lbs.	35 inches	35 inches

For any vehicle with bumpers or attaching components which have been modified or altered from the original manufacturer's design to conform with the maximum bumper height requirements of this section, the bumper height shall be measured from a level surface to the bottom of the bumper. The vehicle frame rail,

measured from a level surface to the bottom of the vehicle frame rail, shall not exceed the attached bumper height. The maximum distance between vehicle body to vehicle frame rail shall not exceed three inches. The distance between the vehicle body to vehicle frame rail shall be measured from the vehicle body mount seat to the vehicle frame rail mount seat. "Bumper", for purposes of this section means a horizontal load bearing protective system installed on a motor vehicle which is constructed of sturdy materials that will not shatter or split upon moderate impact and provides adequate protection against damages to the front and rear external lighting and reflective devices, hood, trunk, doors, painted surfaces, cooling system, exhaust system, and other components during a low speed impact. Any vehicle that exceeds the Vehicle Equipment Safety Commission - Regulation 12 recommended bumper height, based on the gross vehicle weight rating, shall be equipped with an audible reverse warning system. The audible reverse warning system is not required on any open cab vehicle with a distance of less than four feet from the rear of the driver's seating position to the rear most part of the vehicle body. [L 1984, c 291, §1; am L 1985, c 122, §1]

" **§291-36 Exceptions.** (a) The director of transportation, in the case of state highways, or the county engineer, in the case of county roads and streets, may, upon application in writing, issue a written permit authorizing the applicant to operate or move a vehicle or combination of vehicles, self-propelled construction or farm equipment, or special mobile equipment of dimensions or weights, including loads or both, which exceed the limits set in sections 291-34 and 291-35.

(b) The director of transportation, in the case of state highways, or the county engineer, in the case of county roads and streets, may issue a permit authorizing the applicant to operate vehicles or combinations of vehicles which exceed the limits set forth in section 291-35 when carrying products from the place where they are harvested or stored to the place where they are processed or used.

(c) The application for any such permit shall specifically describe the vehicle or combination of vehicles, the self-propelled construction or farm equipment, the load to be operated or moved, the particular highways over which the permit to operate is requested, and whether such permit is requested for a single trip or for continuous operation.

(d) The director of transportation or county engineer may if the director of transportation or county engineer determines that adequate precautions will be taken to protect persons and property issue the permit and may in the permit limit the number

of trips, establish seasonal or other time limitations during which the permit is valid, prescribe conditions as to route, equipment, speed, escort vehicles, safety measures, or otherwise limit or prescribe conditions of operation under such permit to assure against injury to person and undue damage to the road foundations, surfaces, or structures. The issuing authority may also require such undertaking or other security as may be deemed necessary to protect the highways and bridges from damage, or to provide indemnity for any injury resulting from such operation. The permit shall be valid for the period specified or unless sooner revoked by the issuing authority.

(e) Every such permit shall be carried in the vehicle or combination of vehicles or the self-propelled construction or farm equipment to which it refers and shall be open to inspection of any peace officer or traffic officer or employee charged with the care or protection of the highways; provided that in the case of annual permits, this requirement may be met where a copy of the permit is carried in the vehicle, and the original permit is readily available for inspection from the operator's offices in the county of issuance.

(f) The owner of any vehicle or combination of vehicles or self-propelled construction or farm equipment found operating in violation of the terms or conditions of any permit or over sections of the highway not covered by the permit shall be subject to the penalties provided in section 291-37.

(g) The restrictions of sections 291-34 and 291-35 shall not apply to the operation of motor vehicles on roads now under the control of the counties where a private individual or corporation actually maintains the county road or roads under an agreement in writing filed with the respective county or city council. The agreement shall also provide that the individual or corporation shall repair all damages caused to such roads by vehicles or other self-propelled equipment belonging to or under the control of the individual or corporation and upon failure of the individual or corporation to repair such road or roads as provided in such agreement, the county may repair such damages and charge the cost thereof to and collect the same from the individual or corporation.

(h) Nothing in this chapter shall prevent motor vehicles with a width of greater than nine feet, including load, from crossing any public road, street, or highway within the State.

(i) No provision herein shall be so construed as to prevent the passage of ordinances by any county which impose restrictions more severe in nature.

(j) A fee shall be charged for each permit issued by the director of transportation as follows:

- (1) Single trip permit for loads less than 1.35 times the allowable load or less than 14 feet in width...\$ 5.
- (2) Continuous trip permit for loads less than 1.35 times the allowable load or less than 14 feet in width.....\$10.
- (3) Overweight permit in excess of 1.35 times the allowable load.....\$25.
- (4) Oversize permit for width in excess of 14 feet.....\$25.

Such fee shall be deposited in the State's account for special funds for highways.

(k) Notwithstanding any law to the contrary, no permit shall be required for any vehicle or combination of vehicles used in agricultural operations or activities which only crosses any public road, street, or highway within the State at locations approved by the director of transportation, in the case of state highways, or the county engineer, in the case of county roads and streets; provided that:

- (1) The owners of vehicles transporting agricultural products and equipment shall construct and maintain structurally suitable pavement sections at each crossing;
- (2) These owners shall provide for the cleaning and removal of all debris and mud generated by their operation;
- (3) The maximum length of vehicles transporting agricultural products shall be limited to not more than eighty feet; and
- (4) The maximum length of vehicles, including load, used in transporting agricultural equipment shall be limited to not more than one hundred feet. [L 1941, c 216, pt of §1; am L Sp 1941, c 39, §1; RL 1945, §11715; am L 1949, c 94, §2; RL 1955, §311-21; am L 1957, c 251, §2; am L Sp 1959 2d, c 1, §26; HRS §291-36; am L 1971, c 75, §2 and c 133, §2; am L 1977, c 184, §2; am L 1978, c 192, §2; am L 1980, c 281, §2; gen ch 1985]

" **§291-37 Penalties.** (a) Any person who omits to perform any of the acts required by, or who commits any of the acts prohibited by, sections 291-2 to 291-33, or any rules adopted to enforce those sections, shall be guilty of a violation and shall be fined not less than \$25 nor more than \$1,800, except as otherwise provided.

Any person who omits to perform any of the acts required by, or who commits any of the acts prohibited by, section 291-34, 291-35, or 291-36 shall be fined in accordance with the following tables:

If the excess weight is:	The fine for a violation shall be:
100 to 1,500 pounds	\$250
1,501 to 2,000 pounds	260
2,001 to 2,500 pounds	280
2,501 to 3,000 pounds	320
3,001 to 3,500 pounds	360
3,501 to 4,000 pounds	400
4,001 to 4,500 pounds	450
4,501 to 5,000 pounds	500
5,001 to 5,500 pounds	550
5,501 to 6,000 pounds	600
6,001 to 6,500 pounds	660
6,501 to 7,000 pounds	720
7,001 to 7,500 pounds	780
7,501 to 8,000 pounds	840
8,001 to 8,500 pounds	910
8,501 to 9,000 pounds	980
9,001 to 9,500 pounds	1050
9,501 to 10,000 pounds	1120
10,001 pounds and over	1160
If the excess dimension is:	The fine shall be:
Up to 5 feet	\$ 50
Over 5 feet and up to 10 feet	100
Over 10 feet and up to 15 feet	150
Over 15 feet	200

For the purposes of this section, "person" means the driver of the vehicle unless the driver is an employee in the scope and course of employment, in which case "person" means the employer of the driver. In the case of the transportation of a sealed container or transportation by flatrack, "person" means:

- (1) The individual or company the cargo is consigned to;
or
- (2) The individual or company located in the State shipping the cargo.

The consignee or the shipper shall not be cited if the power units' drive axle group is overweight, and the weight is not more than that allowed for a tandem axle with any applicable tolerances.

All penalties imposed and collected for violations of sections 291-33 to 291-36 shall be paid into the state highway fund.

The department of transportation shall institute a system where the fine, based on the tables in this subsection, may be mailed in when the citation or penalty is not to be contested. This system shall include an ability for the owner of the

vehicle or combination of vehicles to request the operator be held harmless and the citation be transferred to that owner of the vehicle or combination of vehicles.

(b) When a vehicle or combination of vehicles including load is found to be in violation of any provision contained in sections 291-33 to 291-36, and the operator of such vehicle or combination of vehicles is a subordinate or employee, the courts shall take judicial notice of this relative subordinate position and, conditions warranting, hold the operator harmless and impose the applicable penalties against the owner of the vehicle or combination of vehicles. The owner of the vehicle or combination of vehicles shall mean persons or officers of firms or corporations, who owns the transporting vehicle or who operates the vehicle under a bona fide lease agreement. [L 1941, c 216, pt of §1; RL 1945, §11716; RL 1955, §311-22; HRS §291-37; am L 1977, c 184, §3; am L 1980, c 281, §3; am L 1989, c 57, §1; am L 1992, c 43, §1 and c 179, §1; am L 1994, c 30, §2; am L 2005, c 66, §1; am L 2007, c 209, §1]

" **§291-38 REPEALED.** L 1976, c 45, §3.

" **§291-39 Enforcement.** (a) For the purpose of the enforcement of sections 291-33 to 291-36, the powers of police officers are conferred upon the director of transportation and any motor carrier safety officer. Every police officer and motor carrier safety officer shall enforce compliance with sections 291-33 to 291-36, with the technical assistance of the department of transportation. In the enforcement of sections 291-34 to 291-36 such officers may require the driver of a vehicle to stop and submit to:

- (1) The measurement of the dimensions of the vehicle and load;
- (2) The examination of the certificate of weight; and
- (3) The weighing of vehicles and load by means of either wheel load weighers, axle load scales, or vehicle scales, if such scales are within two miles of the place where the vehicle is stopped.

(b) The department of transportation is authorized to provide the necessary technical assistance to police officers and motor carrier safety officers to determine compliance or noncompliance with sections 291-34 to 291-36. Whenever the department of transportation determines that the size or weight of a vehicle does not comply with sections 291-34 to 291-36, the police officers or motor carrier safety officers may require the driver to move the vehicle to a suitable place and to remain there until the vehicle and load are brought into compliance with the limits prescribed by this chapter. If any of the load

must be removed from the vehicle in order to comply with sections 291-34 to 291-36, the removal and all risks caused by or resulting from the removal shall be the responsibility of the owner or operator of the vehicle.

(c) Notwithstanding any other provisions of this chapter, no enforcing officer shall issue a citation for violation of section 291-35 unless:

- (1) The violator exceeds the applicable maximum weight by more than five per cent when a portable axle scale is used; or
- (2) The violator exceeds the applicable maximum weight by more than two per cent when a permanently installed axle load scale is used.

This subsection shall not apply to interstate highways.

(d) Police officers and motor carrier safety officers shall issue citations to any person violating sections 291-33 to 291-36, except as specified in subsection (c).

(e) The driver of any vehicle who fails or refuses to stop and submit the vehicle and load to measuring or weighing when directed by a police officer or motor carrier safety officer or who fails or refuses to otherwise comply with this section, shall be fined as provided in section 291-37. [L 1977, c 184, §4; am L 1980, c 281, §4; am L 1983, c 188, §2; am L 1992, c 179, §2]

"PART III. PARKING FOR DISABLED PERSONS

§291-51 Definitions. As used in this part, the following terms have the following meanings:

"Access aisle" means the area that is adjacent to a parking space reserved for a person with a disability and that is to be used exclusively by that person for the purpose of entering and exiting a vehicle.

"Certificate of disability" means a medical statement issued by a licensed practicing physician or advanced practice registered nurse which verifies that a person is disabled, limited, or impaired in the ability to walk.

"Disability and communication access board" means the disability and communication access board established by chapter 348F.

"International symbol of access" means the symbol adopted by Rehabilitation International in 1969 at its Eleventh World Congress on Rehabilitation of the Disabled.

"Issuing agency" means the disability and communication access board.

"Parking space reserved for persons with disabilities" means a public or private parking space, including the access

aisle, designated for the use of a person with a disability that is designed and constructed in compliance with the requirements of the federal Americans with Disabilities Act of 1990, as amended, and related rules and guidelines, and is marked with a sign designating the parking space as reserved for persons with disabilities.

"Person with a disability" means a person with a disability which limits or impairs the ability to walk, and who, as determined by a licensed practicing physician:

- (1) Cannot walk two hundred feet without stopping to rest, due to a diagnosed arthritic, neurological, orthopedic, renal, vascular, or oncological condition;
- (2) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;
- (3) Is restricted by lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest;
- (4) Uses portable oxygen; or
- (5) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to the standards set by the American Heart Association.

"Private entity" means a private owner or lessee of a parking facility or site where invitation to the general public is expressed or implied.

"Private parking" means a privately owned parking facility or site where invitation to the general public is expressed or implied.

"Public entity" means the State or any of its counties.

"Public parking" means a parking facility or site under state or county jurisdiction.

"Removable windshield placard" means a two-sided, hanger-style placard issued under this part to a person with a disability who presents a certificate of disability that verifies that the applicant's disability is expected to last for at least six years.

"Sign designating the parking space as reserved for persons with disabilities" means a sign which contains:

- (1) The words, "Reserved Parking";
- (2) The international symbol of access;
- (3) Words indicating that the space is reserved for parking by persons with disabilities who have valid placards or special license plates; and
- (4) The maximum fine for parking illegally in the space.

"Special license plate" means a license plate that displays the international symbol of access:

- (1) In a color that contrasts to the background; and
- (2) In the same size as the letters or numbers on the plate.

"Temporary removable windshield placard" means a two-sided, hanger-style placard issued under this part to a person with a disability who presents a certificate of disability that verifies the person's disability in monthly increments, which shall not exceed six months. [L 1984, c 46, pt of §2; am L 1986, c 213, §1; am L 1992, c 46, §3; am L 1997, c 308, §5; am L 1999, c 282, §5; am L 2001, c 297, §2; am L 2002, c 16, §15; am L 2003, c 30, §2; am L 2010, c 141, §1; am L 2014, c 45, §5]

" **§291-51.3 Reimbursement to counties; agreement with counties to provide permits.** The State shall reimburse the counties for the unit cost of providing a removable windshield placard or a temporary removable windshield placard on behalf of the State. The reimbursement rate paid to the counties for providing removable windshield placards, temporary removable windshield placards, special license plates, and identification cards shall be established pursuant to section 291-56; provided that a county may retain any fees charged for a transaction. [L 2006, c 269, §1; am L 2007, c 77, §1; am L 2010, c 141, §2]

" **§291-51.4 Fraudulent verification of an applicant as a person with a disability; penalty.** A physician or advanced practice registered nurse who fraudulently verifies that an applicant is a person with a disability to enable the person to represent to the issuing agency that the person is qualified to obtain a removable windshield placard, temporary removable windshield placard, or special license plates shall be guilty of a petty misdemeanor. Each fraudulent verification shall constitute a separate offense. [L 2001, c 297, pt of §1; am L 2014, c 45, §6]

" **§291-51.5 Special license plates.** Upon application by a person with a disability, the issuing agency shall issue special license plates for the vehicle registered in the applicant's name if the vehicle is primarily used to transport that person. The fee for the issuance of special license plates shall not exceed the fee charged for similar license plates for the same class vehicle. [L 1992, c 46, pt of §2; am L 1997, c 308, §6; am L 2001, c 297, §3; am L 2010, c 141, §3]

" **§291-51.6 Issuance of temporary removable windshield placards.** The issuing agency shall issue one temporary

removable windshield placard to each applicant who requests and presents a certificate of disability that verifies the duration of the applicant's disability in monthly increments, which shall not exceed six months, and upon payment of a fee to the issuing agency. Upon request of an applicant who was previously issued one temporary removable windshield placard, a second temporary removable windshield placard shall be issued to that applicant upon verification of the applicant's disability. [L 1992, c 46, pt of §2; am L 1997, c 308, §7; am L 2001, c 297, §4; am L 2003, c 30, §3; am L 2006, c 269, §2; am L 2007, c 77, §2; am L 2010, c 141, §4]

" **§291-51.7 Reciprocity.** The State, counties, and private property owners shall recognize removable windshield placards, temporary removable windshield placards, and special license plates which have been issued by authorities of other states and countries, for the purpose of identifying persons permitted to:

- (1) Utilize parking spaces reserved for persons with disabilities; or
- (2) Exercise other parking privileges afforded by the State, counties, or private property owners for the benefit of persons with disabilities. [L 1992, c 46, pt of §2; am L 1997, c 308, §8; am L 2001, c 297, §5]

" **§291-52 Issuance of removable windshield placard.** The issuing agency shall issue one removable windshield placard to each applicant who presents a certificate of disability that verifies that the applicant's disability is expected to last for at least six years. The removable windshield placard shall expire six years after the date of its issuance. [L 1984, c 46, pt of §2; am L 1992, c 46, §4; am L 1997, c 308, §9; am L 1999, c 282, §6; am L 2001, c 297, §6; am L 2003, c 30, §4; am L 2006, c 269, §3; am L 2010, c 141, §5]

" **§291-52.5 Issuance of identification card.** The issuing agency shall issue one identification card at the same time it issues a removable windshield placard, temporary removable windshield placard, or special license plates to a person with a disability. [L 2001, c 297, pt of §1; am L 2003, c 30, §5; am L 2010, c 141, §6]

" **§291-52.6 Replacement of a removable windshield placard or identification card.** A removable windshield placard, temporary removable windshield placard, or identification card shall be replaced upon:

- (1) Submittal to the issuing agency of a completed application for a removable windshield placard,

- temporary removable windshield placard, or identification card to the issuing agency; and
- (2) Payment of a fee. [L 2001, c 297, pt of §1; am L 2003, c 30, §6; am L 2006, c 269, §4; am L 2007, c 77, §3; am L 2010, c 141, §7]

" **§291-52.7 Fraudulent manufacture or alteration of placards and identification cards.** Any person who fraudulently manufactures or alters a removable windshield placard, temporary removable windshield placard, or identification card for personal use, sale, or issuance to another person to circumvent the issuance requirements of this part, or any person who uses a fraudulently manufactured or altered placard or identification card to circumvent the issuance requirements of this part, shall be guilty of a misdemeanor. The fraudulent manufacture or alteration of each placard and of each identification card for personal use, sale, or issuance or is otherwise used in violation of this section shall constitute a separate offense. [L 2001, c 297, pt of §1; am L 2003, c 30, §7]

" **§291-53 Nontransferability; penalty.** The removable windshield placard, temporary removable windshield placard, or special license plates shall not be used by anyone other than the person with a disability to whom it is issued unless it is being used in connection with the transport of the person with a disability. An unauthorized person using the removable windshield placard, temporary removable windshield placard, or special license plates to obtain the special parking privileges authorized under this part or otherwise afforded by the State or counties, shall be guilty of a traffic infraction under chapter 291D and fined not less than \$250 nor more than \$500. A removable windshield placard, temporary removable windshield placard, or special license plates may be confiscated by a law enforcement officer or commissioned volunteer enforcement officer of the county law enforcement agency for any unauthorized use. [L 1984, c 46, pt of §2; am L 1992, c 46, §5; am L 1997, c 308, §10; am L 2001, c 297, §7]

" **§291-54 Display of removable and temporary removable windshield placards.** The placard shall be displayed in such a manner that it may be viewed from the front and rear of the vehicle by hanging it from the front windshield rearview mirror of a vehicle when the placard is in use. If the design of the rearview mirror precludes hanging the placard in a secure manner, the placard shall be displayed on the dashboard. [L 1984, c 46, pt of §2; am L 1992, c 46, §6; am L 1997, c 308, §11; am L 2001, c 297, §8; am L 2011, c 183, §1]

" **§291-55 Metered parking privileges.** Any vehicle displaying special license plates, a removable windshield placard, or a temporary removable windshield placard issued under this part shall be permitted to park, without payment of metered parking fees, in any metered parking space for a maximum of two-and-a-half hours or the maximum amount of time the meter allows, whichever is longer. All parking fees not specifically exempted under this part shall remain in effect. [L 1984, c 46, pt of §2; am L 1990, c 161, §1; am L 1992, c 46, §7; am L 2001, c 297, §9; am L 2003, c 30, §8]

" **§291-56 Rules.** The disability and communication access board shall adopt rules under chapter 91 to carry out the purposes of this part, including rules for:

- (1) The issuance, renewal, confiscation, revocation, and suspension of removable windshield placards, temporary removable windshield placards, and special license plates;
- (2) Decertification, reciprocity, and the replacement of placards and identification cards;
- (3) The design of the placard, identification card, and special license plates;
- (4) The establishment of transaction fees for placards;
- (5) Signage and marking of parking spaces;
- (6) Reimbursement rates to the counties; and
- (7) Penalties. [L 1984, c 46, pt of §2; am L 1992, c 46, §8; am L 1997, c 308, §12; am L 1999, c 282, §7; am L 2001, c 297, §10; am L 2003, c 30, §9; am L 2006, c 269, §5; am L 2010, c 141, §8]

" **§291-57 Parking spaces reserved for persons with disabilities; penalties.** (a) Any person who uses a parking space reserved for persons with disabilities who:

- (1) Fails to properly display a removable windshield placard, a temporary removable windshield placard, or special license plates;
- (2) Displays an invalid removable windshield placard, an invalid temporary removable windshield placard, or invalid special license plates;
- (3) Uses a removable windshield placard, a temporary removable windshield placard, or special license plate that was not issued to that person or to any passengers occupying the vehicle in the parking space; or

(4) With or without a removable windshield placard, a temporary removable windshield placard, or special license plates:

(A) Parks in an access aisle; or

(B) Obstructs the ingress or egress to a parking space reserved for a person with a disability;

shall be guilty of a traffic infraction under chapter 291D and shall be fined not less than \$250 nor more than \$500 and pay any costs incurred by the court related to assessing the fine; provided that a person with a disability who has been issued a valid placard or special license plate that is currently in effect, and who has failed to display the placard or license plate while parking in a space reserved for persons with disabilities, shall pay a fine of not less than \$25 nor more than \$100 and any costs incurred by the court related to assessing the fine.

(b) Any person who uses a parking space reserved for persons with disabilities and refuses or fails to present an identification card issued under this chapter or the rules adopted thereunder to an enforcement officer upon request shall be guilty of a traffic infraction under chapter 291D and shall be fined not less than \$250 nor more than \$500.

(c) Any citation issued under this chapter may be mailed to the violator pursuant to section 291C-165(b). [L 1997, c 308, §2; am L 2001, c 297, §11; am L 2003, c 30, §10]

" **[\$291-58] Requirement to provide parking for persons with disabilities; penalty.** Beginning July 1, 2002, any public or private entity that provides a parking space reserved for persons with disabilities shall comply with this part and any administrative rules adopted under this part. A private entity that fails to comply with this section shall be fined not less than \$250 nor more than \$500 for each separate offense. Each day of violation shall constitute a separate offense. Any action taken to impose or collect any penalty provided for in this section shall be considered a civil action. [L 2001, c 297, pt of §1]

" **[\$291-59] Enforcement.** Notwithstanding any law to the contrary, and in addition to any other authority provided by law that is not inconsistent with the purposes of this part:

(1) A law enforcement officer may access the property of a private entity to enforce the provisions of this part; and

(2) A commissioned volunteer enforcement officer may access the property of a private entity during normal

business hours of the entity to enforce the provisions of this part; provided that the private entity's parking lot contains a parking space reserved for persons with disabilities. [L 2003, c 30, §1]

"[PART IV. MISCELLANEOUS]

Revision Note

Part heading designated pursuant to §23G-15.

§291-71 Designation of parking spaces for electric vehicles; charging system. (a) Places of public accommodation with at least one hundred parking spaces available for use by the general public shall have at least one parking space exclusively for electric vehicles and equipped with an electric vehicle charging system located anywhere in the parking structure or lot by July 1, 2012; provided that no parking space designated for electric vehicles shall displace or reduce accessible stalls required by the Americans with Disabilities Act Accessibility Guidelines. Spaces shall be designated, clearly marked, and the exclusive designation enforced. Owners of multiple parking facilities within the State may designate and electrify fewer parking spaces than required in one or more of their owned properties; provided that the scheduled requirement is met for the total number of aggregate spaces on all of their owned properties.

(b) For the purposes of this section:

"Electric vehicle" means:

- (1) A neighborhood electric vehicle as defined in section 286-2; or
- (2) A vehicle, with four or more wheels, that draws propulsion energy from a battery with at least four kilowatt hours of energy storage capacity that can be recharged from an external source of electricity.

"Electric vehicle charging system" means a system that:

- (1) Is capable of providing electricity from a non-vehicle source to charge the batteries of one or more electric vehicles;
- (2) Meets recognized standards, including standard SAE J1772 of SAE International; and
- (3) Is designed and installed in compliance with article 625 of the National Electrical Code.

"Place of public accommodation" has the same meaning as that provided in section 489-2. [L 2009, c 156, pt of §4; am L 2012, c 89, §2]

Note

L 2012, c 168, §2 (repealed June 30, 2020) provides:

"SECTION 2. (a) The department of transportation may adopt rules pursuant to chapter 91, Hawaii Revised Statutes, for the registration of, and issuance of special license plates for, electric vehicles.

(b) An electric vehicle on which an electric vehicle license plate is affixed shall be exempt from payment of parking fees, including those collected through parking meters, charged by any state or county authority in this State, except that this exemption shall not apply:

- (1) For more than two and one-half hours of metered parking, or the maximum amount of time the meter allows, whichever is longer; or
- (2) To parking fees assessed in increments longer than one twenty-four-hour day, including weekly, monthly, or annual parking permits.

(c) An electric vehicle on which an electric vehicle license plate is affixed shall be exempt from high occupancy vehicle lane restrictions.

(d) For the purposes of this Act:

"Electric vehicle" means:

- (1) A neighborhood electric vehicle; or
- (2) A vehicle, with four or more wheels, that draws propulsion energy from a battery with at least four kilowatt hours of energy storage capacity that can be recharged from an external source of electricity."

" **§291-72 Parking spaces reserved for electric vehicles; penalties.** (a) Beginning January 1, 2013, any person who parks a non-electric vehicle in a space designated and marked as reserved for electric vehicles shall receive a warning.

(b) Beginning July 1, 2013, any person who parks a non-electric vehicle in a space designated and marked as reserved for electric vehicles shall be guilty of a traffic infraction under chapter 291D and shall be fined not less than \$50 nor more than \$100, and shall pay any costs incurred by the court related to assessing the fine.

(c) Any citation issued under this section may be mailed to the violator pursuant to section 291C-165(b). [L 2009, c 156, pt of §4; am L 2012, c 89, §3]