

**"CHAPTER 291C
[STATEWIDE TRAFFIC CODE]**

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Note

Pedestrian safety improvements (reports through 2009 legislature). L Sp 2007, c 2, §4.

Traffic safety and major accident reporting protocols by each county police department. L 2010, c 104.

Cross References

Adjudication of traffic infractions, see chapter 291D.

"PART I. GENERAL PROVISIONS

§291C-1 Definitions. As used in this chapter:

"Alley" means a street or highway intended to provide access to the rear or side of lots or buildings and not intended for the purpose of through vehicular traffic.

"Arterial street" means any United States or state numbered route, controlled-access highway, or other major radial or circumferential street or highway designated by counties within their respective jurisdictions as part of a major arterial system of streets or highways.

"Authorized emergency vehicle" includes fire department vehicles, police vehicles, ambulances, ocean safety vehicles, public safety law enforcement vehicles, conservation and resources enforcement vehicles, and department of transportation division of harbors law enforcement vehicles authorized and approved pursuant to section 291-31.5 that are publicly owned and other publicly or privately owned vehicles designated as such by a county council.

"Bicycle" means every vehicle propelled solely by human power upon which any person may ride, having two tandem wheels, and including any vehicle generally recognized as a bicycle though equipped with two front or two rear wheels except a toy bicycle.

"Bicycle lane" means that portion of any highway which has been set aside for the preferential or exclusive use of bicycles.

"Bicycle path" means any facility set aside for the preferential or exclusive use of bicycles and physically separated from a highway.

"Bicycle route" means any highway that is designated to be shared by bicycles and pedestrians or motor vehicles, or both.

"Bikeway" means a bicycle lane, bicycle path, or bicycle route, or any traffic control device, shelter, parking facility, or other support facility to serve bicycles and persons using bicycles.

"Bodily injury" means physical pain, illness, or any impairment of physical condition.

"Bus" means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons; and every motor vehicle, other than a school bus or a taxicab, designed and used for the transportation of persons for compensation.

"Business district" means the territory contiguous to and including a highway when within any six hundred feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, and public buildings which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

"Controlled-access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.

"Crosswalk" means:

- (1) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or
- (2) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

"Dangerous wheels" means any wheel, wheel cover, hubcap, lug nut cover or cap, prong, or any ornamentation affixed to any of the aforementioned items that extends at least four inches beyond the portion of the wheel rim that extends furthest away from the vehicle and that may cause injury or property damage by minimal contact with a person or object.

"Driver" means every person who drives or is in actual physical control of a vehicle.

"Electric personal assistive mobility device" means a self-balancing, two-wheeled, non-tandem-wheeled device, designed to transport only one person, using an electric propulsion system that limits the maximum speed of the device to twelve and a half miles per hour or less.

"Highway" means the entire width between the boundary lines of every way publicly maintained and those private streets, as defined in section 46-16, over which the application of this chapter has been extended by ordinance, when any part thereof is open to the use of the public for purposes of vehicular travel.

"House trailer" means:

- (1) A trailer or semitrailer which is designed, constructed, and equipped as a dwelling place, living abode, or sleeping place (either permanently or temporarily) and is equipped for use as a conveyance on streets and highways; or
- (2) A trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a house trailer, as defined in paragraph (1), but which is used instead permanently or temporarily for the advertising, sales, display, or promotion of merchandise or services, or for any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

"Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

Where a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection. The junction of an alley with a street or highway shall not constitute an intersection.

"Laned roadway" means roadway which is divided into two or more clearly marked lanes for vehicular traffic.

"Moped" means a device upon which a person may ride which has two or three wheels in contact with the ground, a motor having a maximum power output capability measured at the motor output shaft, in accordance with the Society of Automotive Engineers standards, of two horsepower (one thousand four hundred ninety-two watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and which will propel the device unassisted, on a level surface at a maximum speed no greater than thirty miles per hour; and a direct or automatic power drive system which requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit.

"Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not

more than three wheels in contact with the ground but excludes a farm tractor and a moped.

"Motor scooter" means every motorcycle which produces not more than five horsepower, and excludes a moped.

"Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power but not operated upon rails but excludes a moped.

"Neighborhood electric vehicle" means a self-propelled electrically powered motor vehicle to which all of the following apply:

- (1) The vehicle is emission free;
- (2) The vehicle is designed to be and is operated at speeds of twenty-five miles per hour or less;
- (3) The vehicle has four wheels in contact with the ground;
- (4) The vehicle has a gross vehicle weight rating of less than three thousand pounds; and
- (5) The vehicle conforms to the minimum safety equipment requirements as adopted in the Federal Motor Vehicle Safety Standard No. 500, Low Speed Vehicles (49 C.F.R. 571.500).

"Official traffic-control devices" mean all signs, signals, markings, and devices not inconsistent with this chapter placed or erected by authority or with the consent of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

"Owner" means a person, other than a lien holder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.

"Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

"Pedestrian" means any person afoot, in an invalid chair, or in a vehicle propelled by a person afoot.

"Police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

"Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

"Railroad" means a carrier of persons or property upon cars operated upon stationary rails.

"Railroad sign or signal" means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

"Railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails.

"Residence district" means the territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business.

"Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways the term "roadway" as used herein refers to any such roadway separately but not to all such roadways collectively.

"Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

"School bus" means every motor vehicle as defined in section 286-181 and any regulations promulgated pursuant thereto by the department of education.

"Serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

"Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

"Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

"Stop" when required means complete cessation from movement.

"Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance

with the directions of a police officer or traffic-control sign or signal.

"Street" means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

"Substantial bodily injury" means bodily injury which causes: (1) a major avulsion, laceration, or penetration of the skin; (2) a chemical, electrical, friction, or scalding burn of second degree severity; (3) a bone fracture; (4) a serious concussion; or (5) a tearing, rupture, or corrosive damage to the esophagus, viscera, or other internal organs.

"Through highway" means every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on such through highway in obedience to a stop sign, yield sign, or other official traffic-control device, when such signs or devices are erected as provided by law.

"Toy bicycle" means every device propelled solely by human power upon which any person may ride, having two tandem wheels, including any device generally recognized as a bicycle though equipped with two front or two rear wheels, which has a seat height of not more than twenty-five inches from the ground when the seat is adjusted to its highest position; or a scooter or similar device regardless of seat height.

"Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for purposes of travel.

"Traffic-control signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

"Urban district" means the territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than one hundred feet for a distance of a quarter of a mile or more.

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a roadway or highway, including mopeds and bicycles, but excluding toy bicycles, devices other than bicycles moved by human power, and devices used exclusively upon stationary rails or tracks. [L 1971, c 150, pt of §1; am L 1974, c 133, §1; am L 1975, c 187, §4; am L 1976, c 148, §2; am L 1978, c 39, §1 and c 175, §§9, 10, 11; am L 1984, c 273, §3; am L 1990, c 43, §3; am L 1992, c 243, §3; am L 1995, c 173, §3; am L 1999, c 262, §3(2); am L

2003, c 112, §1 and c 180, §3; am L 2007, c 109, §2; am L 2014, c 23, §2; am L 2016, c 99, §2 and c 100, §3]

Case Notes

Discussed: 87 H. 249, 953 P.2d 1347.

" **[\$291C-2] 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;
- (2) The maximum of which may be \$100 if the violation is an offense under sections 291C-12.6, 291C-13, 291C-14, 291C-15, 291C-16, 291C-103, 291C-104, or 291C-105;
- (3) The maximum of which may be \$500 if the violation is an offense under section 291C-12; and
- (4) The maximum of which may be \$250 if the violation is an offense under section 291C-12.5.

(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, §2]

" **[\$291C-3] State and county safe routes to school programs; coordinators; grants; reports.** (a) There is established, within the department of transportation, a safe routes to school program that shall, among other things, enhance traffic safety around Hawaii's schools, enable and encourage children to walk and bicycle to school, and make bicycling and walking to school a safer and more appealing transportation alternative.

(b) There is created, within the department of transportation, the position of safe routes to school program coordinator. The safe routes to school program coordinator shall provide a central point of contact for the federal safe routes to school program.

(c) A county designated office, through the county safe routes to school program coordinator, and in consultation with the department of education, department of health, and Hawaii Association of Independent Schools, shall provide safe routes to school funds for school-based and community-based workshops and infrastructure and non-infrastructure projects that will reduce vehicular traffic and congestion, encourage walking and

bicycling, and promote health and safety around Hawaii's schools.

(d) The director of transportation, through the safe routes to school program coordinator and in consultation with county safe routes to school program coordinators, shall develop a mechanism to provide funds to county safe routes to school programs from the safe routes to school program special fund established under section 291C-4 to be used for the implementation of county safe routes to school program projects.

(e) Implementation of the county safe routes to school program shall take into consideration the need to:

- (1) Fill a permanent, full-time position of safe routes to school coordinator within the county designated office;
- (2) Maximize the participation of school officials and stakeholder groups in the community;
- (3) Work in conjunction with county designated safe routes to school stakeholders and train volunteer facilitators for school-based workshops and community-based projects, including flexible training schedules;
- (4) Train potential grant requestors and stakeholder groups in federal and state requirements necessary for procurement, contracts, design, and construction; and
- (5) Allocate not less than ten per cent and not more than thirty per cent of safe routes to school funds for non-infrastructure-related activities or activities to encourage walking and bicycling to school, public awareness campaigns, student sessions on bicycle and pedestrian safety, or other non-infrastructure activities as prescribed under section 1404 of the 2005 Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Public Law No. 109-59.

(f) Each grant proposal in the county safe routes to school program shall:

- (1) Identify the modes of travel used by students to get to school;
- (2) Determine the number of students using each mode of travel;
- (3) Survey the parents of each student to gather information regarding the factors involved in the choice of transportation mode for the student and, where the student travels by automobile or bus, conditions that would need to change for the parent to permit the student to walk or ride a bicycle to school, and obstacles to walking and biking; and

(4) Identify traffic infrastructure elements in the immediate vicinity of each school, including multi-lane roadways, speed limits, and traffic calming features that, either by their presence or absence, contribute to the use of automobiles as a student's mode of travel to school.

(g) The director of transportation, in consultation with organizations that have received non-infrastructure and pending infrastructure grants, shall develop a streamlined process for the safe routes to school program that meets federal and state requirements, simplifies the application process, and expedites release of funding after completion of school-based and community-based projects for infrastructure and non-infrastructure.

(h) The director of transportation shall submit to the legislature an annual report of the status and progress of the safe routes to school program, including an accounting of all grants provided through the program and a timeline for future grant awards, no later than twenty days prior to the convening of each regular session.

(i) Nothing in this section shall be construed as requiring actions or omissions that would render the State ineligible to receive funds for the safe routes to school program under the 2005 Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Public Law No. 109-59. [L 2012, c 317, pt of §2]

" **[\$291C-4] Safe routes to school program special fund; establishment.** (a) There is established in the state treasury the safe routes to school program special fund, into which shall be deposited:

- (1) Assessments collected for speeding in a school zone, pursuant to section 291C-104; and
- (2) Safe routes to school program surcharges collected in accordance with sections 291-16 and 291C-5.

Moneys in the fund shall be distributed by the director of transportation to the respective counties to expend.

(b) The director of transportation shall adopt rules pursuant to chapter 91 to implement this section. The rules shall establish a formula by which the moneys in the fund shall be distributed to each county and provide how the county shall expend the moneys for the purposes under [section] 291C-3 in public school zones. [L 2012, c 317, pt of §2]

" **[\$291C-5] 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 part X shall be ordered

to pay a safe routes to school program surcharge of \$10 if the violator is not already required to pay a safe routes to school program surcharge for the violation.

(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 transmit the surcharge to the safe routes to school program special fund established under section 291C-4. [L 2012, c 317, pt of §2]

"PART II. ACCIDENTS AND ACCIDENT REPORTS

[\$291C-11] Provisions of part apply throughout State.

This part applies upon highways and elsewhere throughout the State. [L 1971, c 150, pt of §1]

" **§291C-12 Accidents involving death or serious bodily injury.** (a) The driver of any vehicle involved in an accident resulting in serious bodily injury to or death of any person shall immediately stop the vehicle at the scene of the accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until the driver has fulfilled the requirements of section 291C-14. Every such stop shall be made without obstructing traffic more than is necessary.

(b) Any person who violates subsection (a) shall be guilty of a class B felony.

(c) The license or permit to drive and any nonresident operating privilege of the person so convicted shall be revoked.

(d) For any violation under this section, a surcharge of \$500 shall be imposed, in addition to any other penalties, and shall be deposited into the neurotrauma special fund.

(e) For any violation under this section, a surcharge of up to \$500 may be imposed, in addition to other penalties, which shall be deposited into the trauma system special fund. [L 1971, c 150, pt of §1; gen ch 1985; am L 1992, c 243, §4; am L 2002, c 160, §7; am L 2008, c 231, §7]

Case Notes

One cannot be convicted of both attempted murder by driving over another and a violation of this section. 1 H. App. 625, 623 P.2d 1271.

Failure to stop offense committed prior to 1992 amendment must be sentenced as a class C felony. 9 H. App. 333, 839 P.2d 1186.

Criminal liability under subsection (a) does not require proof that the driver of a vehicle caused injury to or death of a person, but only that the accident the driver was involved in

resulted in injury to or death of any person; under subsection (a), a driver is "involved in an accident" when driver's vehicle is affected or implicated in the accident. 77 H. 329 (App.), 884 P.2d 392.

Not inconsistent that jury found defendant not guilty of negligent homicide in third degree, but guilty of intentionally, knowingly, or recklessly failing to stop at accident scene. 77 H. 329 (App.), 884 P.2d 392.

Where (1) traffic accident victim, and not defendant, caused the accident, (2) it appeared that victim's vehicle flipped over on its roof causing victim's immediate death upon impact, and (3) there was no evidence in the record that defendant's criminal misconduct of failing to remain at the scene of the accident, provide information, and render reasonable assistance pursuant to this section and §291C-14 caused victim's injuries or death, no nexus between defendant's conduct and victim's injuries and death had been demonstrated; thus, restitution could not be imposed under §706-646. 121 H. 191 (App.), 216 P.3d 117 (2009).

This section does not speak in terms of requiring a driver to complete the requirements of §291C-14(a) only; this section allows compliance by satisfying the requirements of either §291C-14(a) or (b); the prosecution needs to prove beyond a reasonable doubt that defendant failed to fulfill the requirements under §291C-14(a) or (b), which set forth specific conduct constituting the offense. The requirements in §291C-14(a) and (b) were essential elements that needed to be included in the charge; the mere reference to §291C-14 in the indictment was insufficient to allege the specific requirements in §291C-14(a) and (b) that petitioner was alleged to have contravened. 129 H. 30, 292 P.3d 1260 (2013).

" **§291C-12.5 Accidents involving substantial bodily injury.**

(a) The driver of any vehicle involved in an accident resulting in substantial bodily injury to any person shall immediately stop the vehicle at the scene of the accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until the driver has fulfilled the requirements of section 291C-14. Every such stop shall be made without obstructing traffic more than is necessary.

(b) Any person who violates subsection (a) shall be guilty of a class C felony.

(c) For any violation under this section, a surcharge of \$250 shall be imposed, in addition to any other penalties, and shall be deposited into the neurotrauma special fund.

(d) For any violation under this section, a surcharge of up to \$250 may be imposed, in addition to other penalties, which shall be deposited into the trauma system special fund. [L 1992, c 243, §1; am L 2002, c 160, §8; am L 2008, c 231, §8]

" **§291C-12.6 Accidents involving bodily injury.** (a) The driver of any vehicle involved in an accident resulting in bodily injury to any person shall immediately stop the vehicle at the scene of the accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until the driver has fulfilled the requirements of section 291C-14. Every such stop shall be made without obstructing traffic more than is necessary.

(b) Any person who violates subsection (a) shall be guilty of a misdemeanor.

(c) For any violation under this section, a surcharge of \$100 shall be imposed, in addition to any other penalties, and shall be deposited into the neurotrauma special fund.

(d) For any violation under this section, a surcharge of up to \$100 may be imposed, in addition to other penalties, which shall be deposited into the trauma system special fund. [L 1992, c 243, §2; am L 2002, c 160, §9; am L 2008, c 231, §9]

" **§291C-13 Accidents involving damage to vehicle or property.** The driver of any vehicle involved in an accident resulting only in damage to a vehicle or other property that is driven or attended by any person shall immediately stop such vehicle at the scene of the accident or as close thereto as possible, but shall forthwith return to, and in every event shall remain at, the scene of the accident until the driver has fulfilled the requirements of section 291C-14. Every such stop shall be made without obstructing traffic more than is necessary. For any violation under this section, a surcharge of up to \$100 may be imposed, in addition to other penalties, which shall be deposited into the trauma system special fund. [L 1971, c 150, pt of §1; gen ch 1985; am L 2005, c 73, §1; am L 2008, c 231, §10]

Cross References

Classification of offense and authorized punishment, see §§701-107, 706-610, 640, 663.

Case Notes

Prosecution under this section is proper if accident results only in damages to property and does not result in personal injury. 1 H. App. 298, 618 P.2d 1148.

An offense under §291C-15 is an included offense under this section and §291C-14. 9 H. App. 156, 828 P.2d 298.

" **§291C-14 Duty to give information and render aid.** (a) The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle or other property which is driven or attended by any person shall give the driver's name, address, and the registration number of the vehicle the driver is driving, and shall upon request and if available exhibit the driver's license or permit to drive to any person injured in the accident or to the driver or occupant of or person attending any vehicle or other property damaged in the accident and shall give such information and upon request exhibit such license or permit to any police officer at the scene of the accident or who is investigating the accident and shall render to any person injured in the accident reasonable assistance, including the carrying, or the making of arrangements for the carrying, of the person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary, or if such carrying is requested by the injured person; provided that if the vehicle involved in the accident is a bicycle, the driver of the bicycle need not exhibit a license or permit to drive.

(b) In the event that none of the persons specified is in condition to receive the information to which they otherwise would be entitled under subsection (a), and no police officer is present, the driver of any vehicle involved in the accident after fulfilling all other requirements of section 291C-12, 291C-12.5, or 291C-12.6, and subsection (a) of this section, insofar as possible on the driver's part to be performed, shall forthwith report the accident to the nearest police officer and submit thereto the information specified in subsection (a).

(c) For any violation under this section, a surcharge of up to \$100 may be imposed, in addition to other penalties, which shall be deposited into the trauma system special fund. [L 1971, c 150, pt of §1; am L 1984, c 273, §4; gen ch 1985; am L 1992, c 243, §5; am L 2008, c 231, §11]

Case Notes

Section did not violate defendant's privilege against self-incrimination. 64 H. 479, 643 P.2d 541.

An offense under §291C-15 is an included offense under this section and §291C-13. 9 H. App. 156, 828 P.2d 298.

Where (1) traffic accident victim, and not defendant, caused the accident, (2) it appeared that victim's vehicle flipped over on its roof causing victim's immediate death upon impact, and (3) there was no evidence in the record that defendant's criminal misconduct of failing to remain at the scene of the accident, provide information, and render reasonable assistance pursuant to §291C-12 and this section caused victim's injuries or death, no nexus between defendant's conduct and victim's injuries and death had been demonstrated; thus, restitution could not be imposed under §706-646. 121 H. 191 (App.), 216 P.3d 117 (2009).

Section 291C-12 does not speak in terms of requiring a driver to complete the requirements of subsection (a) only; §291C-12 allows compliance by satisfying the requirements of either subsection (a) or (b); the prosecution needs to prove beyond a reasonable doubt that defendant failed to fulfill the requirements under subsection (a) or (b), which set forth specific conduct constituting the offense. The requirements in subsections (a) and (b) were essential elements that needed to be included in the charge; the mere reference to this section in the indictment was insufficient to allege the specific requirements in subsections (a) and (b) that petitioner was alleged to have contravened. 129 H. 30, 292 P.3d 1260 (2013).

" **§291C-15 Duty upon striking unattended vehicle or other property.** The driver of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to the other vehicle or property shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle or other property of the driver's name, address, and the registration number of the vehicle the driver is driving or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving the driver's name, address, and the registration number of the vehicle the driver is driving and shall without unnecessary delay notify the nearest police office. Every such stop shall be made without obstructing traffic more than is necessary. For any violation under this section, a surcharge of up to \$100 may be imposed, in addition to other penalties, which shall be deposited into the trauma system special fund. [L 1971, c 150, pt of §1; gen ch 1985; am L 2008, c 231, §12]

Case Notes

An offense under this section is an included offense under §§291C-13 and 291C-14. 9 H. App. 156, 828 P.2d 298.

" **§291C-16 Immediate notice of accident.** (a) The driver of a vehicle involved in an accident resulting in injury or death of any person or total damage to all property to an apparent extent of \$3,000 or more shall immediately by the quickest means of communication give notice of the accident to the nearest police office. If sent to the site of the accident, a responding police officer shall file a written report if it appears at the time that the accident has resulted in the injury or death of any person, or total damage to all property to an apparent extent of \$3,000 or more.

(b) Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident as required in subsection (a) and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall make or cause to be given the notice not given by the driver.

(c) For any violation under this section, a surcharge of up to \$100 may be imposed, in addition to other penalties, which shall be deposited into the trauma system special fund. [L 1971, c 150, pt of §1; am L 1974, c 111, §1; am L 1990, c 39, §4; am L 1995, c 216, §3; am L 2008, c 231, §13]

" **[§291C-17] Written reports of accidents.** Written reports of accidents by drivers, owners, and occupants of vehicles involved in accidents shall be furnished in compliance with the requirements of chapter 287. [L 1971, c 150, pt of §1]

" **§291C-18 False reports.** No person shall give information in oral or written reports as required in this part or in chapter 287 knowing or having reason to believe that such information is false. [L 1971, c 150, pt of §1; am L 2005, c 73, §2]

" **[§291C-19] Garages to report.** The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident of which written report must be made by the driver as provided in chapter 287, or struck by any bullet, shall report to the police department, within twenty-four hours after the motor vehicle is received by the garage or repair shop, giving the vehicle identification number, registration number, and the name and address of the owner or driver of the vehicle. [L 1971, c 150, pt of §1]

" **[§291C-20] Disclosure of traffic accident reports.** (a) Any traffic accident report required under this chapter shall be

made without prejudice to the person required to report information concerning the accident and shall be for the confidential use of the police department, except that the department shall, upon request, disclose such record, to any person directly concerned in the traffic accident or having a proper interest therein, including:

- (1) The driver or drivers involved, or the employer, parent, or legal guardian thereof;
- (2) The authorized representative of any person involved in the accident;
- (3) Any person injured in the accident;
- (4) The owners of vehicles or property damaged in the accident;
- (5) Any law enforcement agency; and
- (6) Any court of competent jurisdiction.

(b) Any person who may sue because of death resulting from any such accident shall be deemed a party directly concerned.

(c) In the event of a conflict between this section and any other law, including sections 286-171 and 286-172 and chapter 92F, this section shall control. [L 1996, c 275, §1]

"RULES OF THE ROAD

PART III. OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS

[\$291C-21] Provisions of parts III to XIV refer to vehicles upon the highways; exceptions. The provisions of parts III to XIV relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except, where a different place is specifically referred to in a given section. [L 1971, c 150, pt of §1]

" **§291C-22 REPEALED.** L 1978, c 222, §8.

" **§291C-23 Obedience to police officers.** It shall be a petty misdemeanor for any person to wilfully fail or refuse to comply with any lawful order or direction of any police officer invested by law with authority to direct, control, or regulate traffic. [L 1971, c 150, pt of §1; am L 1978, c 222, §9]

" **[\$291C-24] Persons riding animals or driving animal-drawn vehicles.** Every person riding an animal or driving any animal-drawn vehicle 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 by this chapter, except those provisions of this chapter which by their very nature can have no application. [L 1971, c 150, pt of §1]

" **[§291C-25] Persons working on highways; exceptions.** Unless specifically made applicable, the provisions of this chapter except those contained in part XI shall not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway but shall apply to such persons and vehicles when traveling to or from such work. [L 1971, c 150, pt of §1]

" **§291C-26 Authorized emergency vehicles.** (a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm and vehicles used by police officers while in the performance of a police function, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

- (b) The driver of an authorized emergency vehicle may:
- (1) Park or stand irrespective of the provisions of this chapter;
 - (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
 - (3) Exceed the maximum speed limits so long as the driver does not endanger life or property;
 - (4) Disregard regulations governing direction of movement or turning in specified directions;
 - (5) Drive on the shoulder and median of roadways; and
 - (6) Drive in controlled-access roadways, highways, and facilities.

(c) The exemptions granted in subsection (b) to an authorized emergency vehicle shall apply only when the vehicle is making use of authorized audible and visual signals, except as otherwise provided by county ordinance. This subsection shall not apply to police vehicles.

(d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall those provisions protect the driver from the consequences of the driver's reckless disregard for the safety of others. [L 1971, c 150, pt of §1; gen ch 1985; am L 2002, c 93, §1; am L 2003, c 112, §2]

" **§291C-27 Emergency vehicle stopped for emergencies; duty of approaching vehicle.** (a) A driver of a vehicle that is approaching an emergency vehicle that is stopped for an emergency, investigation of a possible traffic violation,

rendering assistance to a police officer, or other official duties, as indicated by the flashing emergency lights of the stopped emergency vehicle, shall:

- (1) Slow down to a reasonable and prudent speed that is safe under the circumstances of an emergency road situation ahead. Reasonableness and prudence shall take into account weather conditions, road conditions, and vehicular and pedestrian traffic in the immediate area. If necessary, the driver shall come to a complete stop before making a lane change under paragraph (2); and
- (2) Make a lane change into the adjacent lane if necessary and if it is safe to do so, or if possible, to two lanes over which leaves one lane between the driver and the emergency vehicle.

(b) As used in this section, "emergency vehicle" means a police or fire department vehicle, ocean safety vehicle, emergency medical services vehicle, freeway service patrol vehicle, sheriff division vehicle, Hawaii emergency management agency vehicle, county emergency management vehicle, civil defense vehicle, department of transportation harbors division vehicle, department of land and natural resources division of conservation and resources enforcement vehicle, or a tow truck.

(c) Violation of subsection (a) shall not be subject to section 287-20, relating to furnishing proof of financial responsibility.

A violation of subsection (a) shall constitute a violation if no death or injury results from the violation.

If a death or injury occurs and is attributable to the driver of the vehicle for a violation of subsection (a), then the driver shall instead be charged under section 707-702.5 for negligent homicide in the first degree; section 707-703 for negligent homicide in the second degree; section 707-704 for negligent homicide in the third degree; section 707-705 for negligent injury in the first degree; or section 707-706 for negligent injury in the second degree, as applicable. [L 2012, c 318, §2; am L 2015, c 192, §2]

"PART IV. TRAFFIC SIGNS, SIGNALS AND MARKINGS

[§291C-31] Obedience to and required traffic-control devices. (a) The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with law, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.

(b) No provision of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, the section shall be effective even though no signs are erected or in place.

(c) Whenever official traffic-control devices are placed in position approximately conforming to law, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(d) Any official traffic-control device placed pursuant to law and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter, unless the contrary is established by competent evidence. [L 1971, c 150, pt of §1]

Case Notes

Stop sign was authorized by operation of statutory presumption. 72 H. 573, 827 P.2d 648.

Statutory presumption did not impermissively shift State's burden of proof to defendant; presumption was directory rather than mandatory. 9 H. App. 73, 823 P.2d 154.

" **§291C-32 Traffic-control signal legend.** (a) Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red, and yellow shall be used, except for special pedestrian signals carrying a word or symbol legend, and the lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication:

- (A) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at the place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
- (B) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such

arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(C) Unless otherwise directed by a pedestrian-control signal, as provided in section 291C-33, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow indication:

(A) Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

(B) Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian-control signal as provided in section 291C-33, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(3) Steady red indication:

(A) Vehicular traffic facing a steady red signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until an indication to proceed is shown, except as provided in the next succeeding paragraphs.

(B) The driver of a vehicle which is stopped in obedience to a steady red indication may make a right turn but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at said intersection, except that counties by ordinance may prohibit any such right turn against a steady red indication, which ordinance shall be effective when a sign is erected at such intersection giving notice thereof.

(C) The driver of a vehicle on a one-way street which intersects another one-way street on which

traffic moves to the left shall stop in obedience to a steady red indication but may then make a left turn into said one-way street, but shall yield right-of-way to pedestrians, proceeding as directed by the signal at said intersection except that counties by ordinance may prohibit any such left turn as above described which ordinance shall be effective when a sign is erected at such intersection giving notice thereof.

- (D) Unless otherwise directed by a pedestrian-control signal as provided in section 291C-33, pedestrians facing a steady red signal alone shall not enter the roadway.

(b) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal. [L 1971, c 150, pt of §1; am L 1981, c 190, §1]

Case Notes

Defendant had right of allocution before being sentenced for violation charge of illegal turn; denial of right reversible error. 77 H. 241 (App.), 883 P.2d 663.

" **§291C-33 Pedestrian-control signals.** Whenever special pedestrian-control signals, exhibiting the words "Walk" or "Don't Walk" or the symbols of a walking person or an upraised palm are in place such signals shall indicate as follows:

- (1) Walk or Walking Person. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.
- (2) Don't Walk or Upraised Palm. No pedestrian shall start to cross the roadway in the direction of such signal, whether flashing or steady, but any pedestrian who has partially completed the pedestrian's crossing on the Walk or Walking Person signal shall complete the crossing to a sidewalk or safety island while the Don't Walk or Upraised Palm signal is showing. [L 1971, c 150, pt of §1; am L 1981, c 190, §2; gen ch 1985]

" **[\$291C-34] Flashing signals.** (a) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

- (1) Flashing Red (stop signal). When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.
- (2) Flashing Yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(b) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in section 291C-91. [L 1971, c 150, pt of §1]

" **[\$291C-35] Lane-direction-control signals.** When lane-direction-control signals are placed over the individual lanes of a street or highway, vehicular traffic may travel in any lane over which a green signal is shown, but shall not enter or travel in any lane over which a red signal is shown. [L 1971, c 150, pt of §1]

" **§291C-36 Display of unauthorized signs, signals, or markings.** (a) Except as provided in subsection (c), no person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of an official traffic-control device or any railroad sign or signal.

(b) No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.

(c) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs, nor the placement on privately

owned highways, by the owners of the highways, of signs, of a design and at places approved by the county official responsible for traffic control.

(d) Every prohibited sign, signal, or marking is declared to be a public nuisance and the authority having jurisdiction over the highway is empowered to remove the same or cause it to be removed without notice. [L 1971, c 150, pt of §1; am L 1995, c 173, §4]

" **[§291C-37] Interference with official traffic-control devices or railroad signs or signals.** No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof. [L 1971, c 150, pt of §1]

" **§291C-38 Longitudinal traffic lane markings.** (a) Traffic lane markings shall be yellow, white or red in color. Black may be used in combination with these colors where the pavement itself does not provide sufficient contrast.

(b) Lane markings shall conform to the following concepts:

- (1) White lines indicate the separation of lanes of traffic flowing in the same direction.
- (2) Yellow lines indicate the separation of lanes of traffic flowing in opposing directions or the left boundary of a traffic lane at a particularly hazardous location.
- (3) Red markings indicate a roadway that shall not be entered or used by the viewer of those markings.
- (4) Broken lines are permissive in character.
- (5) Solid lines are restrictive in character.
- (6) A wider line indicates a greater degree of emphasis.
- (7) Double lines indicate maximum restriction.
- (8) Markings which require visible emphasis at night shall be reflectorized.

(c) Longitudinal traffic lane markings shall have the following applications:

- (1) A broken white line is used to indicate the edge of the traffic lane where travel is permitted in the same direction on both sides of the line and may be crossed by vehicular traffic when the crossing can be made with safety.
- (2) A broken yellow line is used to indicate the left edge of a traffic lane where traffic on the other side of the line moves in the opposite direction and may be crossed by vehicular traffic only when overtaking or passing a vehicle proceeding in the same direction or

when executing a left turn and then only if the movement can be made with safety and does not interfere with traffic moving in the opposite direction.

- (3) A solid white line is used to indicate the edge of the traffic lane where travel in the same direction is permitted on both sides of the line but where movement from lane to lane is considered to be hazardous. A solid white line may be crossed only in unusual circumstances and then only with great care. A double width solid white line is used to emphasize a greater degree of hazard.
- (4) A solid white line is also used to indicate the right edge of the pavement.
- (5) A double solid white line is used to indicate the edges of traffic lanes where travel in the same direction is permitted on both sides of the double line but where movement from lane to lane is considered to be dangerous. The crossing of a double solid white line by vehicular traffic is prohibited.
- (6) A solid yellow line is used to indicate the left edge of a traffic lane where overtaking and passing on the left is prohibited. The crossing of a solid yellow line by vehicular traffic is prohibited except when the crossing is part of a left turn movement.
- (7) A solid yellow line is also used to indicate the left edge of each roadway of a divided street or highway.
- (8) A double solid yellow line is used to indicate the separation between lanes of traffic moving in opposite directions. The crossing of a double solid yellow line by vehicular traffic is prohibited except when the crossing is part of a left turn movement.
- (9) A double line consisting of a broken yellow line and a solid yellow line is used to indicate a separation between lanes of traffic moving in opposite directions and vehicular traffic adjacent to the broken line is permitted to overtake or pass if the movement can be made with safety and does not interfere with traffic moving in the opposite direction. The crossing of this double line by vehicular traffic adjacent to the solid line is prohibited except when the crossing is part of a left turn movement.
- (10) A double broken yellow line is used to indicate the edge of a reversible traffic lane where the direction of the vehicular traffic may be changed from time to time.

- (11) A dotted line is used to indicate the extension of a line through an intersection or interchange. It shall be the same color as the line it extends. The crossing of a dotted line by vehicular traffic is subject to the same prohibitions and exceptions as are applicable to the line it extends.
- (12) A solid white line when supplemented by official signs or pavement markings, is used to indicate the separation of bicycle lanes from lanes of vehicular traffic flowing in the same direction. Except as allowed under section 291C-123, vehicles other than bicycles shall be prohibited from operating in a bicycle lane. [L 1973, c 202, §1; am L 1975, c 22, §3; am L 1978, c 39, §2; am L 1999, c 263, §4; am L 2002, c 58, §2]

**"PART V. DRIVING ON RIGHT SIDE OF ROADWAY;
OVERTAKING AND PASSING; USE OF ROADWAY**

[\$291C-41] Drive on right side of roadway; exceptions.

- (a) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:
 - (1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
 - (2) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;
 - (3) Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or
 - (4) Upon a roadway designated and signposted one-way traffic.
- (b) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.
- (c) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic-control

devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subsection (a)(2). This subsection shall not be construed to prohibit the crossing of the center line in making a left turn into or from an alley, private road, or driveway. [L 1971, c 150, pt of §1]

" **[\$291C-42] Passing vehicles proceeding in opposite directions.** Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each driver shall give to the other at least one-half of the main-traveled portion of the roadway as nearly as possible. [L 1971, c 150, pt of §1]

" **[\$291C-43] Overtaking a vehicle on the left.** The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions, and special rules hereinafter stated:

- (1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.
- (2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of the driver's vehicle until completely passed by the overtaking vehicle. [L 1971, c 150, pt of §1; gen ch 1985]

" **[\$291C-44] When overtaking on the right is permitted.** (a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

- (1) When the vehicle overtaken is making or about to make a left turn;
- (2) Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for and with lanes marked for two or more lines of moving vehicles in each direction;
- (3) Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two or more lines of moving vehicles.

(b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway. [L 1971, c 150, pt of §1]

" **[\$291C-45] Limitations on overtaking on the left.** No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless authorized by this part and unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completely made without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within two hundred feet of any approaching vehicle. [L 1971, c 150, pt of §1]

" **[\$291C-46] Further limitation on driving on left of center of roadway.** (a) No vehicle shall be driven to the left side of the roadway under the following conditions:

- (1) When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
- (2) When approaching within one hundred feet of or traversing any intersection or railroad grade crossing;
- (3) When the view is obstructed upon approaching within one hundred feet of any bridge, viaduct, or tunnel.

(b) The foregoing limitations shall not apply upon a one-way roadway, nor under the conditions described in section 291C-41(a)(2), nor to the driver of a vehicle turning left into or from an alley, private road, or driveway. [L 1971, c 150, pt of §1]

" **§291C-47 No-passing zones.** (a) The director of transportation is authorized to and the counties by ordinance with respect to highways under their respective jurisdictions may establish no-passing zones where overtaking and passing or driving to the left of the roadway would be especially hazardous and shall by appropriate signs or markings on the highway establish or indicate the beginning and the end of a no-passing

zone and may place intermediate signs establishing or indicating the continued existence of a no-passing zone. Signs or markings placed by the director of transportation establishing the zone and signs or markings indicating the zone established by ordinance shall be clearly visible to an ordinarily observant person and every driver of a vehicle shall obey the directions thereof.

(b) Where signs or markings are in place to define a no-passing zone as set forth in subsection (a) no driver shall at any time drive on the left side of the roadway within such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.

(c) This section does not apply under the conditions described in section 291C-41(a)(2), nor to the driver of a vehicle turning left into or from an alley, private road, or driveway. [L 1971, c 150, pt of §1; am L 1974, c 133, §2]

" **[\$291C-48] One-way roadways and rotary traffic islands.**

(a) The director of transportation and the counties with respect to highways under their respective jurisdictions may designate any highway, roadway, part of a roadway, or specific lanes upon which vehicular traffic shall proceed in one direction at all or such times as shall be indicated by official traffic-control devices.

(b) Upon a roadway so designated for one-way traffic, a vehicle shall be driven only in the direction designated at all or such times as shall be indicated by official traffic-control devices.

(c) A vehicle passing around a rotary traffic island shall be driven only to the right of the island. [L 1971, c 150, pt of §1]

" **[\$291C-49] Driving on roadways laned for traffic.**

Whenever any roadway has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply.

- (1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from the lane until the driver has first ascertained that such movement can be made with safety.
- (2) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when the center lane is clear of traffic within a safe distance, or in preparation for making a left turn or where the center lane is at the

time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control devices.

- (3) Official traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such sign.
- (4) Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device. [L 1971, c 150, pt of §1]

Case Notes

Violation of paragraph (1) may be evidence of violation of §291-12, inattention to driving. 57 H. 533, 560 P.2d 114.

" **§291C-50 Following too closely.** (a) The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

(b) The driver of a motor truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another motor truck or motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a motor truck or motor vehicle drawing another vehicle from overtaking and passing any like vehicle or other vehicle.

(c) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions. [L 1971, c 150, pt of §1; am L 1984, c 273, §5]

" **[§291C-51] Driving on divided highways.** Whenever any highway has been divided into two or more roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic,

every vehicle shall be driven only upon the right-hand roadway unless directed or permitted to use another roadway by official traffic-control devices or police officers. No vehicle shall be driven over, across, or within any such dividing space, barrier, or section, except through an opening in such physical barrier or dividing section or space or at a cross-over or intersection as established, unless specifically prohibited by public authority. [L 1971, c 150, pt of §1]

" **§291C-52 Restricted access.** No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority. [L 1971, c 150, pt of §1]

" **§291C-53 Restrictions on use of controlled-access roadway or highway.** (a) The director of transportation by rules adopted in accordance with chapter 91, and the counties by ordinance, may regulate or prohibit the use of any controlled-access roadway or highway within their respective jurisdictions by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic. Persons operating motorcycles which are otherwise permitted on a controlled-access roadway or highway shall be permitted to use any high occupancy vehicle lane designated on such roadway or highway. For the purposes of this subsection, "high occupancy vehicle lane" means a designated lane of a laned roadway where the use of such designated lane is restricted to vehicles carrying at least the minimum number of persons designated by the director of transportation as indicated on official signs and other official traffic-control devices, and to other vehicles as provided by rules adopted in accordance with chapter 91, or by county ordinance. Notwithstanding any law to the contrary, no person shall operate a neighborhood electric vehicle on any controlled-access roadway or highway.

(b) The director of transportation or a county adopting any such prohibition shall erect and maintain official traffic-control devices on the controlled-access roadway or highway on which such prohibitions are applicable and when in place no person shall disobey the restrictions stated on such devices. [L 1971, c 150, pt of §1; am L 1983, c 123, §1; am L 1989, c 29, §2; am L 1993, c 224, §§3, 6; am L 1995, c 25, §1; am L 1997, c 309, §§1, 4; am L 1999, c 262, §3(3); am L 2007, c 42, §1]

Cross References

High occupancy vehicle lanes, see §§291C-221 to 227.

"PART VI. RIGHT-OF-WAY

[\$291C-61] Vehicle approaching or entering intersection.

(a) When two vehicles approach or enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(b) The right-of-way rule declared in subsection (a) is modified at through highways and otherwise as stated in this chapter. [L 1971, c 150, pt of §1]

" **§291C-62 Vehicle turning.** The driver of a vehicle intending to turn within an intersection or into an alley, private road, or driveway shall yield the right-of-way to any vehicle, bicycle, or person approaching from the opposite direction or proceeding in the same direction when such vehicle, bicycle, or person is within the intersection or so close thereto as to constitute an immediate hazard. [L 1971, c 150, pt of §1; am L 1977, c 180, §2]

" **[\$291C-63] Vehicle entering stop or yield intersection.**

(a) Preferential right-of-way at an intersection may be indicated by stop signs or yield signs.

(b) Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. After having stopped, the driver shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on the other highway as to constitute an immediate hazard during the time when such driver is moving across or within the intersection.

(c) The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection; provided that if such a driver is involved in a

collision with a vehicle in the intersection, after driving past a yield sign without stopping, the collision shall be deemed prima facie evidence of the driver's failure to yield right-of-way. [L 1971, c 150, pt of §1; gen ch 1985]

" **§291C-64 Vehicle entering highway from private road or driveway.** The driver of a vehicle about to enter or cross a highway (including bicycle lane or bicycle path) from an alley, building, private road, or driveway or from any public or private property other than a highway that is adjacent to the highway, shall yield the right-of-way to all vehicles or bicycles approaching on the highway (including bicycle lane or bicycle path) to be entered. [L 1971, c 150, pt of §1; am L 1977, c 180, §3]

" **[§291C-65] Operation of vehicles on approach of authorized emergency vehicles.** (a) Except as otherwise provided by county ordinance, upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position clear of any intersection and parallel to, and as close as possible to, the right hand edge or curb of the highway or the nearest edge or curb when the highway has multiple lanes or when the highway is a divided highway or one-way street and shall stop and remain in such position until the authorized emergency vehicle is passed, except as otherwise directed by a police officer.

(b) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway. [L 1971, c 150, pt of §1]

"PART VII. PEDESTRIANS' RIGHTS AND DUTIES

[§291C-71] Pedestrian obedience to traffic-control devices and traffic regulations. (a) A pedestrian shall obey the instructions of any official traffic-control device specifically applicable to the pedestrian, unless otherwise directed by a police officer.

(b) Pedestrians shall be subject to traffic and pedestrian-control signals as provided in sections 291C-32 and 291C-33.

(c) At all other places, pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter. [L 1971, c 150, pt of §1; gen ch 1985]

" **§291C-72 Pedestrians' right-of-way in crosswalks.** (a)

The driver of a vehicle shall stop for a pedestrian who is crossing the roadway within a crosswalk when the pedestrian is either:

- (1) Upon the half of the roadway upon which the vehicle is traveling; or
- (2) Approaching the vehicle so closely from the opposite half of the roadway as to be in danger,

and shall not proceed until the pedestrian has passed the vehicle and the driver can safely proceed.

(b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(c) Subsection (a) shall not apply under the conditions stated in section 291C-73(b).

(d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

(e) Every person who violates this section shall be subject to the following penalties:

- (1) For a first infraction, or any infraction not preceded within one year by a prior violation of this section, a fine of \$150;
- (2) For an infraction that occurs within one year of a prior violation of this section, a fine of \$300 and revocation of the person's driver's license and privilege to operate a vehicle for a period of ninety days; and
- (3) For an infraction that occurs within two years of two prior violations of this section, and for the fourth and each additional infraction of this section, regardless of when committed, a fine of \$1,000, and revocation of the person's driver's license and privilege to operate a vehicle for a period of one hundred eighty days. [L 1971, c 150, pt of §1; am L 2005, c 73, §3; am L 2007, c 125, §1]

" **§291C-73 Crossing at other than crosswalks.** (a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been

provided shall yield the right-of-way to all vehicles upon the roadway.

(c) Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to the crossing movements.

(e) Every person who violates this section shall be fined \$100. [L 1971, c 150, pt of §1; am L 2007, c 125, §2]

" **[\$291C-74] Drivers to exercise due care.** Notwithstanding other provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the driver's horn when necessary and shall exercise proper precaution upon observing any child or any obviously confused or incapacitated person upon a roadway. [L 1971, c 150, pt of §1; gen ch 1985]

" **[\$291C-75] Pedestrians to use right half of crosswalks.** Pedestrians shall move, whenever practicable, upon the right half of crosswalks. [L 1971, c 150, pt of §1]

" **§291C-76 Pedestrians on roadways.** (a) Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway, bicycle lane, or bicycle path.

(b) Where sidewalks are not provided any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction. [L 1971, c 150, pt of §1; am L 1977, c 180, §4]

" **§291C-77 Pedestrians soliciting rides, business, or attention of motorist.** (a) Except as otherwise provided by county ordinance, no person shall stand in, walk along, or otherwise occupy a portion of a highway for the purpose of soliciting a ride, employment, business, or contributions from the occupant of any vehicle.

(b) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway. [L 1971, c 150, pt of §1; am L 1973, c 216, §2; am L 2015, c 35, §5]

Attorney General Opinions

Subsection (a) is not unconstitutionally vague. Att. Gen. Op. 75-17.

Case Notes

Subsection (c) violates First Amendment freedom of speech. 516 F.2d 892.

" **[\$291C-78] Driving through safety zone prohibited.** No vehicle shall at any time be driven through or within a safety zone. [L 1971, c 150, pt of §1]

" **[\$291C-79] Pedestrians' right-of-way on sidewalks.** The driver of a vehicle emerging from or entering an alley, building, private road, or driveway shall yield the right-of-way to any pedestrian approaching on any sidewalk extending across the alley, building entrance, road, or driveway. [L 1971, c 150, pt of §1]

"PART VIII. TURNING AND STARTING AND SIGNALS ON STOPPING AND TURNING

§291C-81 Required position and method of turning at intersections. The driver of a vehicle intending to turn at an intersection shall do so as follows:

- (1) Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
- (2) Left turns. The driver of a vehicle intending to turn left at any intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and, after entering the intersection, the left turn shall be made so as to leave the intersection in a lane lawfully available to traffic moving in such direction upon the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.
- (3) The director of transportation and the counties in their respective jurisdictions may cause official traffic-control devices to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an

intersection, and when such devices are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such devices. [L 1971, c 150, pt of §1; am L 1977, c 180, §5; am L 1984, c 273, §6]

" **§291C-82 Turning so as to proceed in the opposite direction.** (a) No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred feet.

(b) In addition to the prohibition in subsection (a), the director of transportation is authorized to and the counties may by ordinance with respect to highways under their respective jurisdictions prohibit the turning of any vehicle so as to proceed in the opposite direction on the highway at any location where such turning would be dangerous to those using the highway or would unduly interfere with the free movement of traffic.

(c) The director of transportation and the counties by ordinance with respect to the highways under their respective jurisdictions shall place signs which are clearly visible to an ordinarily observant person prohibiting the turning of a vehicle to proceed in the opposite direction. The signs shall be official signs and no person shall turn any vehicle in violation of the restrictions stated on such signs. [L 1971, c 150, pt of §1; am L 1974, c 133, §3]

" **[§291C-83] Starting parked vehicle.** No person shall start a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety. [L 1971, c 150, pt of §1]

" **§291C-84 Turning movements and required signals.** (a) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in section 291C-81, or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided.

(b) A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred feet traveled by the vehicle before turning; provided that for a bicycle or moped, such signal shall be given continuously during not less than the last one hundred feet

traveled by the bicycle or moped before turning, and shall be given when the bicycle or moped is stopped waiting to turn; and further provided that a signal by hand and arm need not be given continuously by the driver of a bicycle or moped if the hand is needed in the braking, control, or operation of the bicycle or moped.

(c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

(d) The signals provided for in section 291C-85(b) shall be used to indicate an intention to turn, change lanes, or start from a parked position and shall not be flashed on one side only on a parked or disabled vehicle, or flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear. [L 1971, c 150, pt of §1; am L 1984, c 273, §7]

Case Notes

Violation of this section may be evidence of violation of §291-12, inattention to driving. 57 H. 533, 560 P.2d 114.

" **[§291C-85] Signals by hand and arm or signal lamps.** (a) Any stop or turn signal when required herein shall be given either by means of the hand and arm or by signal lamps, except as otherwise provided in subsection (b).

(b) Any motor vehicle in use on a highway shall be equipped with, and required signal shall be given by, signal lamps when the distance from the center of the top of the steering post to the left outside limit of the body, cab, or load of such motor vehicle exceeds twenty-four inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles. [L 1971, c 150, pt of §1]

" **§291C-86 Method of giving hand-and-arm signals.** All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

- (1) Left turn--hand and arm extended horizontally.
- (2) Right turn--hand and arm extended upward, except bicyclists may signal using the right hand and arm extended horizontally from the right side of the bicycle.

- (3) Stop or decrease speed--hand and arm extended downward. [L 1971, c 150, pt of §1; am L 2015, c 12, §2]

"PART IX. SPECIAL STOPS REQUIRED

§291C-91 Obedience to signal indicating approach of train.

(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of the vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of the railroad, and shall not proceed until the train has passed. The foregoing requirements shall apply when:

- (1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
- (2) A crossing gate is lowered or when a human flagperson gives or continues to give a signal of the approach or passage of a train;
- (3) A railroad train approaching within approximately fifteen hundred feet of the highway crossing emits a signal audible from that distance and the railroad train, by reason of its speed or nearness to the crossing, is an immediate hazard;
- (4) An approaching railroad train is approximately within fifteen hundred feet of the crossing and is plainly visible and is in hazardous proximity to the crossing.

(b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed. [L 1971, c 150, pt of §1; gen ch 1985, 1993; am L 1997, c 156, §1]

" **§291C-92 All vehicles must stop at certain railroad grade crossings.** The director of transportation and the counties are authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat. When such stop signs are erected, the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only if no train is approaching. If a train is approaching, and is approximately within fifteen hundred feet of the crossing, the driver must not proceed until after the train has passed. [L 1971, c 150, pt of §1; am L 1997, c 156, §2]

" **§291C-93 Certain vehicles must stop at all railroad crossings.** (a) The driver of any motor vehicle carrying passengers for hire, or of any school bus carrying any school

child, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty feet but not less than fifteen feet from the nearest rail of such railroad, and while so stopped shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and if a train is approaching, and is approximately within fifteen hundred feet of the crossing, shall not proceed until after the train has passed. After stopping as required herein and determining that no train is approaching, the driver of any such vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing the crossing and the driver shall not shift gears while crossing the track or tracks.

(b) No stop need be made at any such crossing where a police officer or a traffic-control signal directs traffic to proceed.

(c) This section shall not apply at street-railway grade crossings within a business or residence district. [L 1971, c 150, pt of §1; gen ch 1985; am L 1997, c 156, §3]

" **§291C-94 Emerging from alley, driveway, or building.** The driver of a vehicle emerging from an alley, building, private road, or driveway or from any public or private property other than a highway that is adjacent to a bicycle lane, bicycle path, sidewalk, or sidewalk area shall stop the vehicle immediately prior to driving onto the bicycle lane, bicycle path, sidewalk, or sidewalk area extending across the alley, building entrance, road, or driveway, or such public or private property, or in the event there is no bikeway or sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon. [L 1971, c 150, pt of §1; am L 1977, c 180, §6]

" **§291C-95 Overtaking and passing school bus.** (a) Whenever a school bus is stopped on a highway or road in a residential area with its visual signals actuated as described in subsection (g), the driver of any motor vehicle on the same highway or road in a residential area in the lane occupied by the school bus and all lanes adjacent to the lane occupied by the school bus, regardless of the direction of traffic in those lanes, shall stop the driver's vehicle not less than twenty feet from the school bus and shall not proceed until the school bus resumes motion and the visual signals are turned off.

(b) Subsection (a) shall not apply to a vehicle when the school bus and the vehicle are on different roadways; except that where a highway or road in a residential area has been divided into two or more lanes by an intervening space, a physical barrier, or a clearly indicated dividing section, subsection (a) shall apply to all drivers of motor vehicles in all lanes on the same side as a school bus which is stopped with visual signals actuated as required under subsection (c).

(c) The driver of the school bus shall actuate the visual signals described in subsection (g) only when the school bus is stopped for the purpose of receiving or discharging school children.

(d) The front and rear of every school bus shall be marked with the words "SCHOOL BUS" in plainly visible letters not less than eight inches in height and strokes not less than three-fourths of an inch in width.

(e) No vehicle, other than a school bus, shall display a "SCHOOL BUS" sign.

(f) When a school bus is being operated upon a highway for purposes other than as an incident to the transportation of children, all marking thereon indicating "SCHOOL BUS" shall be covered or concealed.

(g) The visual signals actuated as required under subsection (c) shall consist of four red signal lamps meeting the following requirements:

- (1) Two lamps shall face forward and two shall face the rear;
- (2) The two forward lamps shall flash alternately and shall be mounted at the same level, but as high and as widely spaced as practical;
- (3) The two rear lamps shall flash alternately and shall be mounted at the same level but as high and as widely spaced as practical; and
- (4) Each of the lamps shall be of sufficient intensity as to be plainly visible at a distance of five hundred feet in normal sunlight and shall be capable of being actuated from the driver's seat by a single switch.

(h) Any person who violates this section shall be fined not more than \$500 or sentenced to perform community service, or both. [L 1971, c 150, pt of §1; am L 1975, c 22, §2; am L 1976, c 52, §1; gen ch 1985; am L 1987, c 237, §2; am L 1998, c 265, §1]

"PART X. SPEED RESTRICTIONS

Cross References

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

§291C-101 Basic rule. No person shall drive a vehicle at a speed greater than is reasonable and prudent and having regard to the actual and potential hazards and conditions then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic, or by reason of weather or highway conditions. [L 1971, c 150, pt of §1; am L 1977, c 8, §1]

Case Notes

For conviction, there must be evidence that the speed was unreasonable under the actual and potential hazards and conditions then existing. 1 H. App. 403, 619 P.2d 1102.

" **§291C-102 Noncompliance with speed limit prohibited.** (a) A person violates this section if the person drives:

(1) A motor vehicle at a speed greater than the maximum speed limit other than provided in section 291C-105;
or

(2) A motor vehicle at a speed less than the minimum speed limit,

where the maximum or minimum speed limit is established by county ordinance or by official signs placed by the director of transportation on highways under the director's jurisdiction.

(b) If the maximum speed limit is exceeded by more than ten miles per hour, a surcharge of \$10 shall be imposed, in addition to any other penalties, and shall be deposited into the neurotrauma special fund. [L 1971, c 150, pt of §1; am L 1984, c 273, §8; gen ch 1985; am L 2002, c 160, §10; am L 2004, c 102, §2; am L 2006, c 129, §3]

Case Notes

Speeding law not criminal, therefore, not assimilated under the Assimilative Crimes Act. 900 F.2d 1346.

Traffic citation issued to defendant on a military installation, referencing only Hawaii state law (this section) and reciting the facts of defendant's speeding violation, provided insufficient notice to defendant that defendant faced a criminal violation of federal law. 537 F. Supp. 2d 1116 (2008).

In prosecution under this section, prosecutor has burden of proving that speed limit was established in one of ways specified in this section. 57 H. 277, 554 P.2d 767.

Tuning fork used to calibrate radar gun was itself accurately calibrated. 70 H. 580, 779 P.2d 11.

Where trial court properly took judicial notice of the speed limit, as required by HRE rule 202(b), there was sufficient evidence to find motorist guilty of violating subsection (a). 95 H. 22, 18 P.3d 884.

The State failed to lay an adequate foundation for the introduction of the laser gun reading, and thus the trial court erred in admitting the speed reading into evidence. 132 H. 170, 319 P.3d 1178 (2014).

Defendant was effectively put on notice of allegedly exceeding speed limit established by county ordinance. 9 H. App. 73, 823 P.2d 154.

State's mere showing that the evidence presented at trial was sufficient to establish that defendant committed the lesser included regular speeding infraction (RSI) under subsection (a)(1) was not enough, by itself, to warrant the entry of judgment on the RSI; such a showing would be sufficient to justify remanding defendant's case for retrial on the lesser included RSI; to warrant remand for entry of judgment on the RSI, the State had to also show that the erroneous admission of the speed check evidence was harmless beyond a reasonable doubt as to the determination that defendant committed the RSI. 124 H. 270 (App.), 241 P.3d 562 (2010).

Where there was no reasonable possibility that the erroneous admission of the speed check card might have affected the district court's finding that defendant drove defendant's car in excess of the maximum fifty-five miles per hour speed limit, the erroneous admission was harmless reasonable doubt with respect to the lesser included regular speeding infraction. 124 H. 270 (App.), 241 P.3d 562 (2010).

" **§291C-103 Racing on highways.** (a) Except as provided in section 291C-149, no person shall drive any vehicle in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record, and no person shall in any manner participate in any race, competition, contest, test, or exhibition prohibited by this section.

(b) "Drag race" means the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the

relative speeds or power of acceleration of the vehicle or vehicles within a certain distance or time limit.

(c) "Racing" means the use of one or more vehicles in an attempt to outgain, outdistance, or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle or vehicles, or to test the physical stamina or endurance of drivers over long distance driving routes.

(d) "Exhibition of speed or acceleration" means the sudden acceleration of a vehicle resulting in the screeching of the vehicle's tires which is done to intentionally draw the attention of persons present toward the vehicle.

(e) Any person who violates this section, except subsection (d), shall be fined not more than \$500 or imprisoned not more than six months, or both. Any person who violates subsection (d) shall be fined not more than \$500 or be sentenced to perform community service, or both.

(f) Any person who violates this section while operating a vehicle at a speed exceeding the posted speed limit by thirty miles per hour or more shall be subject to a fine of not more than \$2,000, a term of imprisonment of not more than one year, or both; provided that the following additional penalties shall also apply:

- (1) For an offense that occurs within five years of a prior conviction, a one-year license suspension;
- (2) For an offense that occurs within five years of two prior convictions:
 - (A) A three-year license suspension; and
 - (B) A vehicle owned by the defendant and used in the commission of the offense which has been used in at least two prior offenses that resulted in convictions may be ordered by the court to be subject to forfeiture under chapter 712A;
- (3) For all offenses under this section, a surcharge of up to \$100 may be deposited in the trauma system special fund if the court so orders. [L 1971, c 150, pt of §1; am L 1984, c 273, §9; am L 1989, c 151, §1; am L 2002, c 261, §1; am L 2008, c 231, §14]

Case Notes

"Exhibition of speed and acceleration" not established where there was screeching of tires as defendant accelerated during a turn. 67 H. 95, 678 P.2d 1081.

Police not justified in stopping defendant for violating this section where defendant revved engine of vehicle and caused heavy exhaust smoke to be emitted while stopped at traffic light. 78 H. 98 (App.), 890 P.2d 685.

" **§291C-104 Speeding in a school zone or construction area.**

(a) No person shall drive a motor vehicle at a speed greater than the maximum speed limit established pursuant to subsection (b) within a school zone or a construction area; provided that if the person drives a motor vehicle at a speed greater than thirty miles an hour or more over the maximum speed limit established in subsection (b), or over eighty miles per hour or more in a school zone or a construction zone, the provisions of section 291C-105 shall control. Appropriate law enforcement personnel may enforce the maximum speed limits established for school zones and construction areas.

(b) Section 291C-102 notwithstanding, the director of transportation and the counties, in their respective jurisdictions, shall establish maximum speed limits for school zones and construction areas and shall require the owner, general contractor, or other person responsible for construction to provide proper signs in construction areas. The director of transportation shall place official signs in school zones.

Signs posted pursuant to this subsection shall be plainly visible at all times under ordinary traffic conditions.

(c) Any person who violates this section shall be fined \$250, may be charged with a surcharge of up to \$100 to be deposited into the trauma system special fund, and, where the violation involves speeding in a school zone, shall be charged with a surcharge of \$25 to be deposited into the safe routes to school program special fund.

(d) For purposes of this section:

"Construction area" includes any area in which there is occurring the installation, construction, or demolition of connections for streets, roads, driveways, concrete curbs and sidewalks, structures, drainage systems, landscaping, or grading within the highway rights-of-way, including aboveground and underground utility work, excavation and backfilling of trenches or other openings in state highways, the restoration, replacement, or repair of the base course, pavement surfaces, highway structures, or any other highway improvements.

"School zone" means every street and all public property in the vicinity of a school as designated by the department of transportation and the counties, in their respective jurisdictions.

(e) The director shall adopt rules pursuant to chapter 91 as may be necessary to implement this section. [L 2000, c 293, §1; am L 2001, c 138, §1; am L 2006, c 129, §4; am L 2008, c 231, §15; am L 2012, c 317, §3]

Cross References

Violation of rules governing the use of traffic control devices at work sites; penalty, see §286-8.

" **§291C-105 Excessive speeding.** (a) No person shall drive a motor vehicle at a speed exceeding:

- (1) The applicable state or county speed limit by thirty miles per hour or more; or
- (2) Eighty miles per hour or more irrespective of the applicable state or county speed limit.

(b) For the purposes of this section, "the applicable state or county speed limit" means:

- (1) The maximum speed limit established by county ordinance;
- (2) The maximum speed limit established by official signs placed by the director of transportation on highways under the director's jurisdiction; or
- (3) The maximum speed limit established pursuant to section 291C-104 by the director of transportation or the counties for school zones and construction areas in their respective jurisdictions.

(c) Any person who violates this section shall be guilty of a petty misdemeanor and shall be sentenced as follows without the possibility of probation or suspension of sentence:

- (1) For a first offense not preceded by a prior conviction for an offense under this section in the preceding five years:
 - (A) A fine of not less than \$500 and not more than \$1,000;
 - (B) Thirty-day prompt suspension of license and privilege to operate a vehicle during the suspension period, or the court may impose, in lieu of the thirty-day prompt suspension of license, a minimum fifteen-day prompt suspension of license with absolute prohibition from operating a vehicle and, for the remainder of the thirty-day period, a restriction on the license that allows the person to drive for limited work-related purposes;
 - (C) Attendance in a course of instruction in driver retraining;
 - (D) A surcharge of \$25 to be deposited into the neurotrauma special fund;
 - (E) May be charged a surcharge of up to \$100 to be deposited into the trauma system special fund if the court so orders;

- (F) An assessment for driver education pursuant to section 286G-3; and
 - (G) Either one of the following:
 - (i) Thirty-six hours of community service work; or
 - (ii) Not less than forty-eight hours and not more than five days of imprisonment;
- (2) For an offense that occurs within five years of a prior conviction for an offense under this section, by:
- (A) A fine of not less than \$750 and not more than \$1,000;
 - (B) Prompt suspension of license and privilege to operate a vehicle for a period of thirty days with an absolute prohibition from operating a vehicle during the suspension period;
 - (C) Attendance in a course of instruction in driver retraining;
 - (D) A surcharge of \$25 to be deposited into the neurotrauma special fund;
 - (E) May be charged a surcharge of up to \$100 to be deposited into the trauma system special fund if the court so orders;
 - (F) An assessment for driver education pursuant to section 286G-3; and
 - (G) Either one of the following:
 - (i) Not less than one hundred twenty hours of community service work; or
 - (ii) Not less than five days but not more than fourteen days of imprisonment of which at least forty-eight hours shall be served consecutively; and
- (3) For an offense that occurs within five years of two prior convictions for offenses under this section, by:
- (A) A fine of \$1,000;
 - (B) Revocation of license and privilege to operate a vehicle for a period of not less than ninety days but not more than one year;
 - (C) Attendance in a course of instruction in driver retraining;
 - (D) No fewer than ten days but no more than thirty days of imprisonment of which at least forty-eight hours shall be served consecutively;
 - (E) A surcharge of \$25 to be deposited into the neurotrauma special fund;

- (F) May be charged a surcharge of up to \$100 to be deposited into the trauma system special fund if the court so orders; and
- (G) An assessment for driver education pursuant to section 286G-3. [L 2006, c 129, §1; am L 2008, c 231, §16]

Case Notes

Where prosecution did not provide a sufficient foundation for the admission of officer's testimony regarding the speed reading given by the officer's laser gun, and no other evidence was admitted at trial indicating the speed that defendant was driving defendant's motor vehicle, disregarding the officer's testimony resulted in a record that was devoid of any evidence of the speed that defendant was driving defendant's motor vehicle; as this material element was not supported by substantial and admissible evidence, defendant's conviction reversed. 121 H. 204, 216 P.3d 1227 (2009).

There was insufficient evidence in the record to sustain defendant's conviction under this section for speeding excessively where, given the relatively small margin of error of five miles per hour greater than the threshold established, officer's testimony that officer's speedometer appeared to have been operating normally throughout the previous year alone was insufficient to establish beyond a reasonable doubt that the speedometer on officer's police vehicle was accurate to within five miles per hour on the night of the offense. 122 H. 354, 227 P.3d 520 (2010).

As the offense of driving at an excessive speed under subsection (a) is not a strict liability offense and requires proof that the defendant acted intentionally, knowingly, or recklessly, the requisite state of mind must be charged in the offense; where the charge against defendant failed to allege the requisite state of mind, judgment vacated and charge dismissed without prejudice. 128 H. 314, 288 P.3d 788 (2012).

Charge of excessive speeding under subsection (a)(1) against petitioner dismissed where the charge did not allege that petitioner acted intentionally, knowingly, or recklessly, thus failing to allege the requisite state of mind. A charge that fails to charge a requisite state of mind cannot be construed reasonably to state an offense and thus the charge was dismissed without prejudice because it violated due process. 130 H. 353, 311 P.3d 676 (2013).

As §291C-161(c) requires every person convicted under this section to be sentenced in accordance with this section, trial court erred in sentencing defendant to a six-month driver's

license suspension under §286-125; the plain language of this section required the sentencing court to impose the list of sanctions as specific under subsection (c), including a thirty-day license suspension for a first-time offender. 121 H. 117 (App.), 214 P.3d 1107 (2009).

" **[§291C-106] Speed limit for Daniel K. Inouye highway.** [Section effective January 1, 2017.] Notwithstanding any other law to the contrary, the speed limit for the Daniel K. Inouye highway shall be sixty miles per hour beginning at mile marker 12; provided that the speed limit shall be forty-five miles per hour or any other speed limit as determined pursuant to sections 291C-102, 291C-104, or 291C-105, beginning at the Pohakuloa training area and ending one-half mile east of the Mauna Kea county park entrance. [L 2016, c 197, §1]

"PART XI. STOPPING, STANDING AND PARKING

§291C-111 Noncompliance with stopping, standing, or parking requirements. (a) With respect to highways under their respective jurisdictions, the director of transportation is authorized to and the counties by ordinance may prohibit or restrict the stopping, standing, or parking of vehicles where the stopping, standing, or parking is dangerous to those using the highway or where the stopping, standing, or parking of vehicles would interfere unduly with the free movement of traffic; provided that the violation of any law or any ordinance, regardless of whether established under this or any other section, prohibiting or restricting the stopping, standing, or parking of vehicles shall constitute a traffic infraction. The counties shall not provide any other penalty, civil or criminal, or any other charge, in the form of rental or otherwise, in place of or in addition to the fine to be imposed by the district court for any violation of any ordinance prohibiting or restricting the stopping, standing, or parking of vehicles.

This section shall not be construed as prohibiting the authority of the director of transportation or the counties to allow the stopping, standing, or parking of motor vehicles at a "T-shaped" intersection on highways under their respective jurisdictions; provided that such stopping, standing, or parking of motor vehicles is not dangerous to those using the highway or where the stopping, standing, or parking of motor vehicles would not unduly interfere with the free movement of traffic.

The appropriate police department and county or prosecuting attorney of the various counties shall enforce any law or ordinance prohibiting or restricting the stopping, standing, or

parking of vehicles, including but not limited to the issuance of parking tickets. Any person committing a violation of any law or ordinance, regardless of whether established under this or any other section, prohibiting or restricting the stopping, standing, or parking of vehicles shall be subject to a fine to be enforced and collected by the district courts of this State and to be deposited into the state general fund for state use.

(b) The director of transportation, the counties, and owners of private highways, with the consent of the county official responsible for traffic control with respect to highways under their respective jurisdictions shall place signs or curb markings which are clearly visible to an ordinarily observant person prohibiting or restricting the stopping, standing, or parking of vehicles on the highway. Such signs or curb markings shall be official signs and markings and no person shall stop, stand, or park any vehicle in violation of the restrictions stated on such signs or markings. [L 1971, c 150, pt of §1; am L 1974, c 133, §4; am L 1976, c 238, §1; am L 1993, c 214, §12; am L 1994, c 273, §1; am L 1995, c 173, §5; am L 1999, c 44, §1]

Cross References

Adjudication of traffic infractions, see chapter 291D.

Parking violation exemption, see §621-8.

" **§291C-112 Certain uses of parked vehicles prohibited between 6:00 p.m. and 6:00 a.m.; definition; exceptions.** (a)

No person shall use any vehicle for purposes of human habitation, whether or not the vehicle is designed or equipped for that purpose, while the vehicle is parked on any roadway, street, or highway or other public property between the hours of 6:00 p.m. and 6:00 a.m. or while the vehicle is parked on private property without authorization of the owner or occupant authorizing both the parking of the vehicle there and its use for purposes of human habitation.

(b) As used in this section "purposes of human habitation" includes use as a dwelling place, living abode, or sleeping place.

(c) This section does not apply to the parking of vehicles and their use for purposes of human habitation in parks, camps, and other recreational areas in compliance with law and applicable rules and regulations, or under emergency conditions in the interest of vehicular safety.

(d) The department of health shall promulgate rules and regulations, pursuant to chapter 91, necessary for the administration of this section. [L 1972, c 48, pt of §2]

Case Notes

Because defendant was a person to whom this section directly applied, and defendant's expressive conduct was not at issue, defendant did not have standing to assert overbreadth challenge based on a hypothetical application of this section. 82 H. 269 (App.), 921 P.2d 1170.

No equal protection violation as section rationally furthers legitimate state interest in protecting health and welfare of public at large. 82 H. 269 (App.), 921 P.2d 1170.

This section, which prohibits the use of a vehicle "for purposes of human habitation", not unconstitutionally vague. 82 H. 269 (App.), 921 P.2d 1170.

" **§291C-113 Ordinances regulating use of vehicles for purposes of human habitation.** Each of the counties may enact and enforce ordinances regulating the use of vehicles for purposes of human habitation.

Upon each of the counties enacting an ordinance pertaining to the use of vehicles for purposes of human habitation, then so far as that county is concerned, the ordinance shall have full force and effect, and shall supersede section 291C-112 until the ordinance is repealed or otherwise made invalid. [L 1972, c 48, pt of §2]

" **[§291C-114] Parking on sidewalks.** The director of transportation is authorized to and the counties by ordinance may with respect to highways under their respective jurisdictions prohibit or restrict the stopping, standing, or parking of vehicles on sidewalks. [L 1988, c 191, §1]

" **[§291C-115] Wheel boots prohibited.** (a) It shall be unlawful for a person or entity, including any county police department, to apply or cause to be applied, a wheel boot to a motor vehicle located on any public or private street, roadway, or highway, as applicable, or on any public or private property, as applicable.

(b) For purposes of this section, "wheel boot" includes a tire lock, denver boot, wheel clamp, or wheel immobilizer.

(c) Any person, entity, or police department violating this section shall be fined \$100 for each application of a wheel boot. [L 2013, c 285, §2]

"PART XII. MISCELLANEOUS RULES

[§291C-121] Unattended motor vehicle. No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition, effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway. [L 1971, c 150, pt of §1]

" **[§291C-121.5] Leaving a child unattended in a motor vehicle.** (a) Notwithstanding chapter 571 or any other law to the contrary, a person violates this section if the person, being the operator or an adult passenger of a motor vehicle, leaves the motor vehicle for five minutes or longer when an unattended child is inside the vehicle, regardless of whether the operator or adult passenger is charged with the care or custody of the child.

(b) Any law enforcement officer, firefighter, or rescue team personnel who observes a child left unattended in a motor vehicle and determines that the unattended child is in physical danger, or poses a danger to others, may use whatever means are reasonably necessary to protect the child or others and remove the child from the motor vehicle. If the person who left the motor vehicle with an unattended child inside cannot be located within a reasonable time, the law enforcement officer, firefighter, or rescue team personnel, upon removing the child from the motor vehicle, shall immediately report the matter to a police officer, as defined under section [587A-4], who may assume protective custody of the child without a court order and without the consent of the child's family.

(c) Law enforcement officers, firefighters, and rescue team personnel shall not be liable in any civil action to any party for any act performed in good faith under this section.

(d) As used in this section:

"Child" means a person under the age of nine.

"Rescue team personnel" means physicians, basic life support personnel, advanced life support personnel, surgeons, nurses, volunteers, or employees of the owners or operators of a hospital or authorized emergency vehicle who have been trained in basic or advanced life support and have been charged by the owners or operators of the hospital or authorized emergency vehicle with providing life support and resuscitation to persons who are in immediate danger of loss of life in cases of emergency.

"Unattended" means leaving a child:

- (1) Alone in a motor vehicle; or
- (2) In a motor vehicle with a minor under the age of twelve. [L 2008, c 170, §2]

" **[§291C-122] Limitations on backing.** (a) The driver of a vehicle shall not back it unless such movement can be made with safety and without interfering with other traffic.

(b) The driver of a vehicle shall not back it upon any shoulder or roadway of any controlled-access highway. [L 1971, c 150, pt of §1]

" **§291C-123 Driving or parking upon bikeway; parking penalty.** (a) No person shall drive any vehicle other than a bicycle or moped upon a bicycle lane or bicycle path, except upon a permanent or authorized temporary driveway, or park any vehicle upon a bicycle lane or bicycle path; provided that any vehicle may be driven or parked in a bicycle lane or bicycle path as applicable if:

- (1) It is in the process of executing a legal turn, lane change, or parking maneuver;
- (2) It is an authorized emergency vehicle performing the functions under section 291C-26;
- (3) It is an official federal, state, or county vehicle in the performance of its actual duty;
- (4) It is a stalled or broken vehicle;
- (5) It is necessary to assist a stalled or broken vehicle;
- (6) It is necessary to yield to an authorized emergency vehicle pursuant to section 291C-65; or
- (7) It is otherwise provided by law.

(b) Any person violating the parking prohibition in subsection (a) shall be fined \$200. Fines collected pursuant to this section shall be deposited into the state highway fund. [L 1971, c 150, pt of §1; am L 1977, c 180, §7; am L 1978, c 30, §3; am L 1984, c 273, §10; am L 2008, c 130, §1; am L 2014, c 120, §2]

" **§291C-124 Obstruction to driver's view or driving mechanism.** (a) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle, or as to interfere with the driver's control over the driving mechanism of the vehicle.

(b) While operating a motor vehicle, no person shall hold in the person's lap, or allow to be in the driver's immediate area, any person, animal, or object which interferes with the driver's control over the driving mechanism of the vehicle.

(c) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with the driver's control over the driving

mechanism of the vehicle. [L 1971, c 150, pt of §1; am L 1981, c 11, §1; gen ch 1985]

" **§291C-125 Opening and closing vehicle doors.** No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with, or causing immediate hazard to the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers. [L 1971, c 150, pt of §1; am L 1977, c 180, §8]

" **[§291C-126] Riding in house trailers.** No person or persons shall occupy a house trailer while it is being moved upon a public highway. [L 1971, c 150, pt of §1]

" **[§291C-127] Coasting prohibited.** The driver of any motor vehicle when traveling upon a down grade shall not coast with the gears or transmission of the vehicle in neutral or with the clutch disengaged. [L 1971, c 150, pt of §1]

" **[§291C-128] Following emergency vehicle prohibited.** The driver of any vehicle other than one on official business shall not follow any emergency vehicle traveling in response to an emergency closer than five hundred feet or drive or park such vehicle within five hundred feet of where the emergency vehicle has stopped in answer to a fire alarm. [L 1971, c 150, pt of §1]

" **[§291C-129] Crossing fire hose.** No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, private road, or driveway, to be used at any fire or alarm of fire, without the consent of the fire department official in command. [L 1971, c 150, pt of §1]

" **§291C-130 Slow moving vehicle emblem required; penalty.**
(a) Any vehicle, or combination of vehicles, designed to operate at a speed of twenty-five miles per hour or less, including a neighborhood electric vehicle, and traveling on a public highway, except when guarded by a flagperson or a flare, or unless provided by ordinance, shall display a triangular slow moving vehicle emblem meeting ASAE Standard S276.2 as developed by the American Society of Agricultural Engineers, mounted on the rear of the vehicle, or combination of vehicles, base down and at a height of not less than three nor more than five feet from the ground to base.

(b) The use of the emblem on any vehicle, other than a vehicle designed to operate at a speed of twenty-five miles per hour or less, or on a stationary object on a public highway is prohibited.

(c) Any person who violates this section shall be fined not more than \$500. [L 1975, c 22, §1; am L 1993, c 214, §13; gen ch 1993; am L 1999, c 262, §3(4)]

" **[§291C-130.5] Dangerous wheels; prohibited.** No person shall operate a vehicle, trailer, or semi-trailer equipped with dangerous wheels. [L 2016, c 100, §2]

" **§291C-131 Spilling loads on highways; penalties.** (a) No vehicle shall be moved on any highway, unless the vehicle is so constructed, covered, or loaded as to prevent any of its load other than clear water or feathers from live birds from dropping, sifting, leaking, blowing, spilling, or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a highway in cleaning or maintaining the highway.

(b) No vehicle shall be driven or moved on any highway when any load thereon is not entirely within the body of the vehicle; provided that this prohibition shall not apply if the load is securely fastened by means of clamps, ropes, straps, cargo nets, or other suitable mechanical device to prevent such load from dropping onto the highway or from shifting in any manner and, further, no vehicle shall be operated on any highway with any load thereon projecting beyond the extreme width of the vehicle.

(c) Vehicles carrying agricultural produce from fields during harvesting shall be exempt from the requirements of this section but the owner of the vehicle must provide for the reasonable removal of all such produce spilled or dropped on the highway.

(d) No vehicle shall be driven or moved on any highway with any load if the load is not entirely covered by a cargo net, tarpaulin, canopy, or other material designed to cover the load to prevent the load from escaping from the vehicle, where the load consists partially or entirely of loose paper, loose rubbish, plastics, empty cartons, dirt, sand, or gravel.

(e) Vehicles transporting a granular load consisting of dirt, sand, or gravel on any highway shall not be required to cover their granular load if the granular load does not extend, at its peak, above any point on a horizontal plane equal in height to the top of the side, front, or rear part of the cargo container area that is the least in height.

(f) No vehicle shall be driven or moved on any highway with a load consisting of rocks, stones, or boulders if the load, at its peak, extends above any point on a horizontal plane equal in height to the top of the side, front, or rear part of the cargo container area that is the least in height.

(g) Violation of this section shall be considered an offense as defined in section 701-107(5), shall not be subject to the provisions of chapter 291D, and shall subject the owner or driver of the vehicle, or both, to the following penalties without possibility of probation or suspension of sentence:

- (1) For a first violation, by a fine of not less than \$250 and not more than \$500.
- (2) For a second violation involving a vehicle or driver previously cited under this section within one year:
 - (A) Suspension of the vehicle registration or suspension of the license of the driver, or both, for not less than five working days but not more than ten working days; and
 - (B) A fine of not less than \$500 and not more than \$750.
- (3) For a third or subsequent violation involving a vehicle or driver previously cited under this section within one year:
 - (A) Suspension of the vehicle registration or suspension of the license of the driver, or both, for a period of thirty calendar days; and
 - (B) A fine of not less than \$750 and not more than \$1,000.

In imposing a fine under this subsection, the court, in its discretion, may apportion payment of the fine between the driver of the vehicle and the owner of the vehicle according to the court's determination of the degree of fault for the violation.

For the purposes of this subsection, a truck-trailer combination and tractor-semitrailer combination, as they are defined in section 286-2, shall be considered as one vehicle. [L 1976, c 137, §1; am L 1977, c 205, §1; am L 1986, c 175, §1; am L 1989, c 301, §1; am L 1990, c 121, §1; am L 2000, c 100, §1]

" **§291C-132 Littering from vehicles.** (a) No person shall throw, place, or drop litter from a vehicle on any highway. The driver of the vehicle may be cited for any litter thrown, placed, or dropped from the vehicle.

(b) "Litter" means rubbish, refuse, waste material, garbage, trash, offal, or debris of whatever kind or description, whether or not it is of value, and includes improperly discarded paper, metal, plastic, glass, or solid waste.

(c) The court shall sentence any person convicted of the offense of littering from vehicles as follows:

(1) For the first offense, defendant shall spend four hours of either picking up litter on public property or performing community service.

(2) For any subsequent offense, defendant shall spend eight hours of either picking up litter on public property or performing community service.

(d) The court shall fine the person convicted of committing the offense of littering at least \$100, but not more than \$500. [L 1977, c 206, §1; am L 1979, c 60, §6; am L 1992, c 116, §1; am L 2006, c 158, §2]

" **§291C-133 Waste material falling from motor vehicles.** (a) Notwithstanding sections 291C-131 and 291C-132 to the contrary, a driver of a motor vehicle from which waste material falls onto a highway or roadway shall be responsible for the removal of the fallen waste material. If the driver is unable to remove the waste material from the highway or roadway, or if removal will create a hazardous situation, the driver shall report, without unnecessary delay, the following information to the county police department:

(1) Description of the fallen waste material;

(2) Location of the fallen waste material;

(3) Time of the incident; and

(4) Any other pertinent information.

(b) A driver who:

(1) Knowingly refuses to remove waste material that has fallen from the driver's motor vehicle onto a highway or roadway; and

(2) Knowingly fails to report the incident, without unnecessary delay, to the county police department, pursuant to subsection (a),

shall be subject to the penalties set forth in section 291C-161.

(c) As used in this section, "waste material" means rubbish, refuse, garbage, trash, tire debris, mufflers, tail pipes, or debris of whatever kind or description. "Waste material" does not include material used by authorized persons in connection with any lawful purpose. [L 1998, c 145, §1; am L 1999, c 18, §5]

" **[§291C-134] Neighborhood electric vehicles; speed; restrictions.** (a) A neighborhood electric vehicle shall not be operated at a speed of more than twenty-five miles per hour.

(b) A neighborhood electric vehicle shall not be driven on a highway that has a posted speed limit of more than thirty-five miles per hour. This subsection does not prohibit a

neighborhood electric vehicle from crossing a highway that has a posted speed limit of more than thirty-five miles per hour at an intersection.

(c) A neighborhood electric vehicle shall have a notice of the operational restrictions applying to the vehicle permanently attached to or painted on the vehicle in a location that is in clear view of the driver.

[(d)] The director of transportation shall adopt rules pursuant to chapter 91 as may be necessary to regulate the use of neighborhood electric vehicles. [L 1999, c 262, §§3(1), 4]

Revision Note

Subsection (d) codified to this section pursuant to §23G-15.

" **§291C-134.5 Electric personal assistive mobility devices; restrictions.** (a) Unless otherwise prohibited or regulated by a county ordinance, an electric personal assistive mobility device may be operated on sidewalks, at a speed no greater than eight miles per hour, and bicycle paths of the State. The sale of consumer models of electric personal assistive mobility devices in the State shall be limited to those models operated by a key that can set the maximum forward speed at no more than eight miles per hour.

(b) An electric personal assistive mobility device operator shall be sixteen years of age or older.

(c) An electric personal assistive mobility device operator on a sidewalk or bicycle path shall exercise due care to avoid colliding with, and shall yield the right-of-way to, persons traveling on foot and those using mobility aids.

(d) An electric personal assistive mobility device operator shall give an audible signal before overtaking and passing any pedestrian.

(e) An electric personal assistive mobility device operator shall wear or equip the electric personal assistive mobility device with reflectors and a headlamp when operating between one-half hour after sunset and one-half hour before sunrise.

(f) Any operator who operates an electric personal assistive mobility device recklessly in disregard for the safety of persons or property shall be assessed penalties as set forth in section 291C-161. [L 2003, c 180, §2; am L 2009, c 78, §1]

" **§291C-135 Tow trucks; signage and insurance requirements.** Notwithstanding any other law to the contrary, the registered owner or lessee of a tow truck shall:

- (1) Permanently affix on each door of the truck a sign with the name and telephone number of the tow business. The letters and numbers used in the sign shall be no less than two inches in height; and
- (2) Maintain insurance in the following amounts:
 - (A) Bodily injury of not less than \$500,000;
 - (B) Property damage of not less than \$200,000; and
 - (C) On-hook coverage of not less than \$175,000; or
 - (D) A combined single limit of liability of not less than \$1,000,000,

to protect owners of towed vehicles in the event of vehicle loss or damage due to towing or bodily injury in the course of towing. If a tow operator fails to comply with the insurance requirements of this section, no charges, including storage charges, may be collected by the tow operator as a result of the tow or as a condition of the release of the towed vehicle. Any person, including the registered owner, lien holder, or insurer of the vehicle, who has been injured by the tow operator's failure to comply with this section is entitled to sue for damages sustained. If a judgment is obtained by the plaintiff, the court shall award the plaintiff a sum of not less than \$1,000 or threefold damages sustained by the plaintiff, whichever sum is greater, and reasonable attorney's fees and costs.

This section shall not apply to a county that has adopted ordinances regulating towing operations. [L 2000, c 260, §1; am L 2003, c 84, §4; am L 2010, c 122, §3]

" **[\$291C-136] Towing by consent; payment.** Notwithstanding any other law to the contrary, towing companies engaged by the registered owner of a vehicle for towing services, including storage if any, shall release the towed vehicle to the registered owner, legal owner, insurer, or a designated representative upon payment of fees for towing services and storage of the vehicle; provided that payment may be made in cash or by debit card, credit card, insurance company check, commercial check, or automated teller machine located on the premises. [L 2010, c 122, §1]

" **§291C-137 Mobile electronic devices.** (a) No person shall operate a motor vehicle while using a mobile electronic device.
(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 law.

(c) No person under eighteen years of age shall operate a motor vehicle while utilizing a hands-free mobile electronic device, except for the sole purpose of making a "911" emergency communication.

(d) The following persons shall be exempt from subsection (a):

- (1) Emergency responders using a mobile electronic device while in the performance and scope of their official duties;
- (2) Drivers using a two-way radio or a private Land Mobile Radio System, within the meaning of title 47 Code of Federal Regulations part 90, while in the performance and scope of their work-related duties and who are operating fleet vehicles or who possess a commercial vehicle license;
- (3) Drivers holding a valid amateur radio operator license issued by the Federal Communications Commission and using a half-duplex two-way radio; or
- (4) Drivers of vehicles that are at a complete stop, while the engine is turned off, in a safe location by the side of the road out of the way of traffic.

(e) As used in this section:

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

"Fleet vehicle" means any vehicle validly registered pursuant to section 286-53.5.

"Mobile electronic device" means any handheld or other portable electronic equipment capable of providing wireless or data communication 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, but does not include any audio equipment or any equipment installed in a motor vehicle for the purpose of providing navigation, emergency assistance to the operator of the motor vehicle, or video entertainment to the passengers in the rear seats of the motor vehicle.

"Operate" a motor vehicle means to drive or assume actual physical control of the vehicle upon a public way, street, road, or highway, including operation while temporarily stationary because of traffic, a traffic light, or a stop sign.

"Use" or "using" means holding a mobile electronic device while operating a motor vehicle.

(f) Every person who violates this section shall be subject to a fine of \$250 that shall be deposited into the state

highway fund; provided that if a person violates this section while operating a motor vehicle in a school zone or construction area, as defined in section 291C-104, the fine shall be \$300, which shall be paid to the director of finance pursuant to section 291C-171.

(g) Any violation as provided in subsections (a) and (c) shall be deemed to be a traffic infraction as defined in section 291D-2.

(h) This section shall supersede any county ordinance regulating the use or utilization of mobile electronic devices while operating a motor vehicle. [L 2013, c 74, §2; am L 2014, c 175, §2; am L 2015, c 35, §6]

"PART XIII. OPERATION OF BICYCLES AND PLAY VEHICLES

§291C-141 Effect of regulations. (a) It is a traffic infraction for any person to do any act forbidden or fail to perform any act required in this part.

(b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate this chapter.

(c) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any bicycle path set aside for the preferential or exclusive use of bicycles subject to those exceptions stated herein. [L 1971, c 150, pt of §1; am L 1978, c 39, §3; am L 1993, c 214, §14]

Cross References

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

" **[§291C-142] Traffic laws apply to persons riding bicycles.** Every person riding a bicycle 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 by this chapter, except as to special regulations in this part and except as to those provisions of this chapter which by their nature can have no application. [L 1971, c 150, pt of §1]

" **§291C-143 Riding on bicycles.** (a) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereon.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped. [L 1971, c 150, pt of §1; am L 1976, c 148, §3; am L 1978, c 175, §12]

" **§291C-144 Clinging to vehicles.** No person riding upon any coaster, roller skates, sled, or toy bicycle or other toy vehicle shall attach it or oneself to any vehicle upon a roadway, and no person riding a bicycle or moped upon any roadway shall attach the bicycle or moped or oneself to any vehicle other than the one the person is riding. [L 1971, c 150, pt of §1; am L 1984, c 273, §11; gen ch 1985]

" **§291C-145 Riding on roadways and bikeways.** (a) Every person operating a bicycle upon a roadway at a speed less than the normal speed of traffic moving in the same direction at such time shall ride as near to the right-hand curb, on the edge of the roadway, or on the shoulder off of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction; except under any of the following situations:

- (1) When preparing for a left turn at an intersection or into a private road or driveway, except where prohibited by official traffic-control devices;
- (2) When reasonably necessary to avoid conditions (including but not limited to fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lanes) that make it unsafe to continue along the right-hand curb, on the edge of the roadway, or on the shoulder off of the roadway. For purposes of this section, a "substandard width lane" is a lane that is too narrow for a bicycle and a vehicle to travel safely side-by-side within the lane; or
- (3) When a roadway is designated and signposted to carry traffic in one direction only and has two or more marked traffic lanes, a person operating a bicycle may ride as near to the left-hand curb, on the edge of the roadway, or on the shoulder off of such roadway as practicable.

(b) Persons riding bicycles upon a roadway shall ride in single file; provided that where the flow of traffic is unimpeded, riding two abreast upon bicycle lanes and bicycle paths shall be permitted when such lane or path is of sufficient width to allow riding two abreast unless otherwise prohibited by rule or ordinance adopted by the director of transportation or by the counties.

(c) Whenever a usable bicycle lane has been provided on a highway, any person operating a bicycle at a speed less than the normal speed of traffic moving in the same direction at such time shall ride within such bicycle lane, except that such

person may move out of the lane under any of the following situations:

- (1) When overtaking and passing another bicycle, vehicle, or pedestrian within the lane or about to enter the lane if such overtaking and passing cannot be done safely within the lane;
- (2) When preparing for a left turn at an intersection or into a private road or driveway; or
- (3) When reasonably necessary to leave the bicycle lane to avoid debris or other hazardous conditions.

(d) No person operating a bicycle shall leave a bicycle lane until the movement can be made with reasonable safety and then only after giving an appropriate signal in the event that any vehicle may be affected by the movement.

(e) No person shall operate or ride a bicycle within a bicycle lane in any direction except that permitted of vehicular traffic traveling on the same side of the highway. Upon all bicycle paths of sufficient width and providing for two-way movement of bicycle traffic, bicycles proceeding in opposite directions shall pass each other to the right.

(f) The director of transportation by rule and the counties by ordinance may with respect to bikeways under their respective jurisdictions restrict or prohibit the use of such bikeways by mopeds.

(g) No person shall ride a bicycle equipped with a motor on any sidewalk. The counties may, by ordinance, post bicycle lanes and bicycle paths to prevent persons riding a bicycle equipped with a motor from using them. [L 1971, c 150, pt of §1; am L 1974, c 133, §5; am L 1976, c 148, §4; am L 1977, c 9, §1; am L 1978, c 30, §2 and c 175, §13; am L 1984, c 273, §12; am L 1998, c 29, §1; am L 1999, c 42, §1]

Cross References

County regulation of commercial bicycle tours, see §46-16.3.

" **§291C-146 Carrying articles.** No person operating a bicycle shall carry any package, bundle, or article which prevents the use of both hands in the control and operation of the bicycle. A person operating a bicycle shall keep at least one hand on the handlebars at all times. [L 1971, c 150, pt of §1; am L 1984, c 273, §13]

" **§291C-147 Lamps and other equipment on bicycles.** (a) Any bicycle used from thirty minutes after sunset until thirty minutes before sunrise shall be equipped with a lamp on the

front emitting a white light visible from a distance of at least five hundred feet to the front.

(b) Every bicycle shall be equipped with a red reflector at least four square inches in size which shall be visible for six hundred feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle.

(c) Every bicycle when in use at the time described in subsection (a) shall be equipped with reflective material at least four square inches in size and of sufficient size and reflectivity to be visible from both sides for six hundred feet when directly in front of lawful lower beams of head lamps on a motor vehicle, or, in lieu of such reflective material, with a lighted lamp visible from both sides from a distance of at least five hundred feet.

(d) A bicycle or its rider may be equipped with lights or reflectors in addition to those required by the foregoing subsections.

(e) A lamp meeting the specification of subsection (a) displayed on the left arm or left leg of the bicycle operator shall be considered to meet the requirements of subsection (a).

(f) A bicycle shall be equipped with a brake or brakes which enable the bicycle's driver to stop the bicycle within twenty-five feet from a speed of ten miles per hour on dry, level, clean pavement. [L 1971, c 150, pt of §1; am L 1974, c 133, §6; am L 1976, c 148, §5; am L 1978, c 175, §14; am L 1984, c 273, §14]

" **§291C-148 Driving upon sidewalk.** (a) Except as provided in subsection (b), no person shall drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or authorized temporary driveway.

(b) Unless otherwise prohibited, a bicycle may be driven at a speed of ten miles per hour or less on a sidewalk or sidewalk area; provided that the driver of the bicycle shall yield the right-of-way to any pedestrian and that bicycle riding shall be prohibited on sidewalks in business districts.

(c) This section shall not be construed as preempting the director of transportation's or counties' authority to control parking on sidewalks under section 291C-114. Nor shall this section be construed as prohibiting the director or a county from authorizing parking on sidewalks when the authorization is promulgated in accordance with section 291C-114. [L 1984, c 273, §15; am L 1988, c 191, §2]

" **[§291C-149] Bicycle racing.** (a) Bicycle racing on the highways is prohibited except as authorized in this section.

(b) Bicycle racing on a highway shall not be unlawful when a racing event has been approved by local authorities for any highway under their respective jurisdictions or for state highways, by the director of transportation. The director may adopt rules pursuant to chapter 91 necessary for the purposes of this chapter. Approval of bicycle highway racing events shall be granted only under conditions which assure reasonable safety for all race participants, spectators and other highway users, and which prevent unreasonable interference with traffic flow which would seriously inconvenience other highway users.

(c) By agreement with the local authority, participants in an approved bicycle highway racing event may be exempted from compliance with any traffic laws otherwise applicable thereto, provided that traffic control is adequate to assure the safety of all highway users. [L 1984, c 273, §16]

" **[\$291C-150] Bicycle helmets.** (a) No person under sixteen years of age shall operate a bicycle upon a street, bikeway, or any other public property unless that person is wearing a properly fitted and fastened bicycle helmet that has been tested by a nationally recognized agency such as the National Highway Traffic Safety Administration, the National Safety Council, or the Children's Safety Network, and is designed to fit the user and protect against head trauma. This requirement also applies to a person who rides upon a bicycle while in a restraining seat that is attached to the bicycle or who rides in a trailer towed by the bicycle.

(b) A person who provides bicycles for hire shall not rent a bicycle to any person unless every person who is under age sixteen is wearing a bicycle helmet, as required in subsection (a), while operating the rented bicycle, occupying a restraining seat that is attached to the rented bicycle, or riding in a trailer towed by the rented bicycle.

(c) A violation of this section is punishable by a fine of not more than \$25. The parent or legal guardian having control or custody of an unemancipated minor whose conduct violates this section shall be liable for the amount of the fine imposed pursuant to this section.

(d) Notwithstanding any law to the contrary, the fines collected for a violation of this section shall be paid into the state treasury to the credit of the state general fund. [L 2000, c 255, §1]

"PART XIV. SPECIAL RULES FOR MOTORCYCLES

[\$291C-151] Traffic laws apply to persons operating motorcycles. Every person operating a motorcycle shall be

granted all of the rights and shall be subject to all of the duties applicable to the driver of any other vehicle under this chapter, except as to special regulations in this part and except as to those provisions of this chapter which by their nature can have no application. [L 1971, c 150, pt of §1]

" **[\$291C-152] Riding on motorcycles.** (a) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless the motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator.

(b) A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle.

(c) No person shall operate a motorcycle while carrying any package, bundle, or other article which prevents the person from keeping both hands on the handlebars.

(d) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or the view of the operator. [L 1971, c 150, pt of §1; gen ch 1985]

Cross References

Carrying a person under seven years of age, see §291-11.

" **[\$291C-153] Operating motorcycles on roadways laned for traffic.** (a) All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection shall not apply to motorcycles operated two abreast in a single lane.

(b) The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

(c) No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.

(d) Motorcycles shall not be operated more than two abreast in a single lane.

(e) Subsections (b) and (c) shall not apply to police officers in the performance of their official duties. [L 1971, c 150, pt of §1]

" **[\$291C-154] Clinging to other vehicles.** No person riding upon a motorcycle shall attach oneself or the motorcycle to any other vehicle on a roadway. [L 1971, c 150, pt of §1; gen ch 1985]

" **[\$291C-155] Footrests and handlebars.** (a) Any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, shall be equipped with footrests for such passenger.

(b) No person shall operate any motorcycle with handlebars more than fifteen inches in height above that portion of the seat occupied by the operator. [L 1971, c 150, pt of §1]

**"PART XV. PENALTIES AND PROCEDURE ON ARREST;
RESPECTIVE POWERS OF STATE AND COUNTIES**

Note

Part heading amended by L 1978, c 111, §1.

Cross References

Trauma system surcharge, see §291C-2.

§291C-161 Penalties. (a) It is a violation for any person to violate any of the provisions of this chapter, except as otherwise specified in subsections (c) and (d) and unless the violation is by other law of this State declared to be a felony, misdemeanor, or petty misdemeanor.

(b) Except as provided in subsections (c) and (d), every person who is determined to have violated any provision of this chapter for which another penalty is not provided shall be fined:

- (1) Not more than \$200 for a first violation thereof;
- (2) Not more than \$300 for a second violation committed within one year after the date of the first violation; and
- (3) Not more than \$500 for a third or subsequent violation committed within one year after the date of the first violation.

(c) Every person convicted under or found in violation of section 291C-12, 291C-12.5, 291C-12.6, 291C-13, 291C-14, 291C-15, 291C-16, 291C-72, 291C-73, 291C-95, 291C-102, 291C-103, 291C-104, or 291C-105 shall be sentenced or fined in accordance with those sections.

(d) Every person who violates section 291C-13 or 291C-18 shall:

- (1) Be fined not more than \$200 or imprisoned not more than ten days for a first conviction thereof;
- (2) Be fined not more than \$300 or imprisoned not more than twenty days or both for conviction of a second offense committed within one year after the date of the first offense; and
- (3) Be fined not more than \$500 or imprisoned not more than six months or both for conviction of a third or subsequent offense committed within one year after the date of the first offense.

(e) The court may assess a sum not to exceed \$50 for the cost of issuing a penal summons upon any person who fails to appear at the place within the time specified in the citation issued to the person for any traffic violation.

(f) The court may require a person who violates any of the provisions of this chapter to attend a course of instruction in driver retraining as deemed appropriate by the court, in addition to any other penalties imposed. [L 1971, c 150, pt of §1; am L 1976, c 44, §1; am L 1978, c 222, §2; gen ch 1985; am L 1992, c 243, §6; am L 1993, c 214, §15; am L 1994, c 33, §1; am L 1996, c 169, §4; am L 1998, c 265, §2; am L 1999, c 297, §3; am L 2006, c 129, §5; am L 2007, c 69, §1 and c 125, §3 ; am L 2008, c 231, §19]

Case Notes

As subsection (c) requires every person convicted under §291C-105 to be sentenced in accordance with §291C-105, trial court erred in sentencing defendant to a six-month driver's license suspension under §286-125; the plain language of §291C-105 required the sentencing court to impose the list of sanctions as specific under §291C-105(c), including a thirty-day license suspension for a first-time offender. 121 H. 117 (App.), 214 P.3d 1107 (2009).

" **[§291C-162] Provisions uniform throughout State.** This chapter shall be applicable and uniform throughout the State and in all political subdivisions therein provided that any matter not covered in this chapter relating to rules of the road may be subject to appropriate county ordinances in any county. [L 1971, c 150, pt of §1]

Attorney General Opinions

Inconsistent provisions of Maui ordinance relating to school buses superseded. Att. Gen. Op. 75-4.

" **§291C-163 Powers of counties.** (a) This chapter shall not be deemed to prevent counties with respect to streets and highways under their jurisdiction from:

- (1) Regulating or prohibiting stopping, standing, or parking except as provided in section 291C-111;
- (2) Regulating traffic by means of police officers or official traffic-control devices;
- (3) Regulating or prohibiting processions or assemblages on the highways;
- (4) Designating particular highways or roadways for use by traffic moving in one direction;
- (5) Establishing speed limits for vehicles in public parks;
- (6) Designating any highway as a through highway or designating any intersection as a stop or yield intersection;
- (7) Restricting the use of highways;
- (8) Regulating the operation and equipment of and requiring the registration and inspection of bicycles, including the requirement of a registration fee;
- (9) Regulating or prohibiting the turning of vehicles or specified types of vehicles;
- (10) Altering or establishing speed limits;
- (11) Requiring written accident reports;
- (12) Designating no-passing zones;
- (13) Prohibiting or regulating the use of controlled-access roadways by any class or kind of traffic;
- (14) Prohibiting or regulating the use of heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic;
- (15) Establishing minimum speed limits;
- (16) Designating hazardous railroad grade crossing;
- (17) Designating and regulating traffic on play streets;
- (18) Prohibiting pedestrians from crossing a roadway in a business district or any designated highway except in a crosswalk;
- (19) Restricting pedestrian crossing at unmarked crosswalks;
- (20) Regulating persons propelling push carts;
- (21) Regulating persons upon skates, coasters, sleds, and other toy vehicles;
- (22) Adopting and enforcing such temporary or experimental regulations as may be necessary to cover emergencies or special conditions;
- (23) Adopting maximum and minimum speed limits on streets and highways within their respective jurisdictions;

- (24) Adopting requirements on stopping, standing, and parking on streets and highways within their respective jurisdictions except as provided in section 291C-111;
- (25) Prohibiting or regulating electric personal assistive mobility devices on sidewalks and bicycle paths; and
- (26) Adopting such other traffic regulations as are specifically authorized by this chapter.

(b) No local authority shall erect or maintain any official traffic-control device at any location so as to require the traffic on any state highway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the director of transportation. [L 1971, c 150, pt of §1; am L 1976, c 238, §2; am L 1998, c 234, §§4, 29; am L 1999, c 263, §5; am L 2000, c 240, §21; am L 2001, c 55, §14; am L 2002, c 58, §2; am L 2009, c 78, §2]

Cross References

County regulation of commercial bicycle tours, see §46-16.3.

Attorney General Opinions

Subsection (a)(1) and (24) does not authorize counties to enact provisions inconsistent with §291C-95. Att. Gen. Op. 75-4.

" **§291C-164 Procedure upon arrest.** Except when authorized or directed under state law to immediately take a person arrested for a violation of any of the traffic laws before a district judge, any authorized police officer, upon making an arrest for violation of the state traffic laws shall take the name, address, and driver's license number of the alleged violator and the registered license number of the motor vehicle involved and shall issue to the driver in writing a summons or citation, hereinafter described, notifying the driver to answer to the complaint to be entered against the driver at a place and at a time provided in the summons or citation. [L 1978, c 111, pt of §2; am L 1979, c 105, §30; gen ch 1985]

" **§291C-165 Summons or citation.** (a) There shall be provided for use by authorized police officers, a form of summons or citation for use in citing violators of those traffic laws which do not mandate the physical arrest of such violators. The form and content of such summons or citation shall be as adopted or prescribed by the administrative judge of the district courts and shall be printed on a form commensurate with

the form of other summonses or citations used in modern methods of arrest, so designed to include all necessary information to make the same valid within the laws and regulations of the State.

(b) In every case when a citation is issued, the original of the citation shall be given to the violator; provided that:

(1) In the case of an unattended vehicle, the original of the citation shall be affixed to the vehicle as provided for in section 291C-167; or

(2) In the case of:

(A) A vehicle utilizing the high occupancy vehicle lane illegally; or

(B) A vehicle illegally utilizing a parking space reserved for persons with disabilities, where the violator refuses the citation;

the original of the citation shall be sent by certified or registered mail, with a return receipt that is postmarked within forty-eight hours of the time of the incident, as provided in section 291C-223 for vehicles illegally utilizing the high occupancy vehicle lane, or within seventy-two hours of the time of the incident for vehicles illegally utilizing a parking space reserved for persons with disabilities, to the registered owner of the vehicle at the address on record at the vehicle licensing division. If the end of the applicable forty-eight or seventy-two hour period falls on a Saturday, Sunday, or holiday, then the ending period shall run until the end of the next day which is not a Saturday, Sunday, or holiday; provided that the administrative judge of the district courts may allow a carbon copy of the citation to be given to the violator or affixed to the vehicle and provide for the disposition of the original and any other copies of the citation.

(c) Every citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original. [L 1978, c 111, pt of §2; am L 1993, c 224, §§4, 6; am L 1995, c 25, §1; am L 1997, c 309, §4; am L 1999, c 263, §6; am L 2000, c 240, §4; am L 2002, c 58, §2; am L 2003, c 30, §11]

Case Notes

A warrant check by police officer during a traffic violation stop not impermissible under this section as there is nothing in this section's language or legislative history to indicate that the section was intended to preclude or limit an officer from performing any of the officer's other duties or carrying out the other standard procedures of the officer's employment. 98 H. 337, 48 P.3d 584.

" **§291C-165.5 Motor vehicle towing and storage; settlement.**

(a) Notwithstanding any other provision of this chapter, any vehicle identified for removal pursuant to any county ordinance ordering removal of motor vehicles by any county police department for traffic violations, including a vehicle which constitutes an obstruction or hazard to traffic, may be towed away at the expense of the registered owner of the vehicle, as provided by this section.

(b) The towing company shall determine the name of the lien holder and the registered owner of the vehicle from the department of transportation or the county department of finance. The lien holder and the registered owner shall be notified by the towing company in writing at the address on record with the department of transportation or with the county department of finance by registered or certified mail of the location of the vehicle, together with a description of the vehicle, within a reasonable period not to exceed twenty days following the tow. The notice shall state:

- (1) The maximum towing charges and fees allowed by law;
- (2) The telephone number of the county finance department that arranged for or authorized the tow; and
- (3) That if the vehicle is not recovered within thirty days after the mailing of the notice, the vehicle shall be deemed abandoned and will be sold or disposed of as junk.

Any towing company engaged in towing pursuant to this section shall comply with the requirements of section 291C-135. When the vehicle is recovered after the tow by the registered owner or lien holder, the party recovering the vehicle shall pay the tow and storage charges which shall not exceed the charges as provided by section 290-11(b) or the rates agreed upon with the respective counties, whichever is lower, except that tow operators may charge additional reasonable amounts for excavating vehicles from off-road locations; provided that if the notice required by this section was not sent within twenty days after the tow, neither the registered owner nor the lien holder shall be required to pay the tow and storage charges. No notice shall be sent to a legal or registered owner or any person with any unrecorded interest in the vehicle whose name or address cannot be determined. A person, including but not limited to the owner's or driver's insurer, who has been charged in excess of the charges permitted under this section may sue for damages sustained, and, if the judgment is for the plaintiff, the court shall award the plaintiff a sum not to exceed the amount of these damages and reasonable attorney's fees together with the cost of the suit.

(c) When a vehicle is recovered by the owner or lien holder before written notice is sent by registered or certified mail, the towing company shall provide the owner or lien holder with a receipt stating the maximum towing charges and fees allowed by law and the telephone number of the county finance department that arranged for or authorized the tow.

(d) When a vehicle is not recovered within thirty days after the mailing of the notice, it shall be deemed abandoned and the owner of the towing company, or the owner of the towing company's authorized representative, after one statewide public notice as required in section 1-28.5, may negotiate a sale of the vehicle or dispose of it as junk.

(e) The authorized seller of the vehicle shall be entitled to the proceeds of the sale to the extent that compensation is due the authorized seller for services rendered in respect to the vehicle, including reasonable and customary charges for towing, handling, storage, and the cost of the notices and advertising required by this part. Any remaining balance shall be forwarded to the registered owner or lien holder of the vehicle if the registered owner or lien holder is found. If the registered owner or lien holder cannot be found, the balance shall be deposited with the director of finance of the State and shall be paid out to the registered owner or lien holder of the vehicle if a proper claim is filed therefor within one year from the execution of the sales agreement. The lien holder shall have first priority to the funds to the extent of the lien holder's claim. If no claim is made within the year allowed, the money shall escheat to the State.

(f) The transfer of title and interest by sale under this section is a transfer by operation of law; provided that if the certificate of ownership or registration is unavailable, a bill of sale executed by an authorized seller is satisfactory evidence authorizing the transfer of the title or interest.

(g) This section shall not apply to a county that has adopted ordinances regulating towing operations. [L 1998, c 139, §1; am L 1999, c 259, §2; am L 2000, c 260, §3; am L 2003, c 84, §5]

Cross References

Other towing provisions:

Abandoned vehicles, see chapter 290.

Airports, see §261-17.6.

Schools and libraries, see §302A-1152.

University of Hawaii, see §304A-2602.

Towing by consent; payment, see §291C-136.

" **§291C-166 REPEALED.** L 1993, c 214, §19.

" **§291C-167 Summons or citation on illegally parked vehicle.** Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions contained in the state traffic laws, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle that may identify its registered owner and conspicuously shall affix to the vehicle a citation, as described in section 291C-165, for the registered owner of record to answer as provided in chapter 291D. [L 1978, c 111, pt of §2; gen ch 1985; am L 1993, c 214, §16]

" **§291C-168 REPEALED.** L 1993, c 214, §20.

" **§291C-168.5 REPEALED.** L 2007, c 85, §12.

Cross References

For present provision, see §291D-3.5.

" **[§291C-169] When complaint to be issued.** In the event any person fails to comply with a penal summons given to such person or attached to a vehicle, or if any person fails or refuses to deposit bail as required and within the time permitted, the court shall forthwith issue a warrant for the person's arrest. [L 1978, c 111, pt of §2; gen ch 1985]

" **§291C-170 Revocation or suspension of license.** In addition to the penalties heretofore provided, the court may revoke or may suspend, for a period not to exceed one year, the license of any driver convicted of a violation of any section or provision of the state traffic laws involving a vehicle in motion. [L 1978, c 111, pt of §2; am L 1979, c 105, §31]

" **§291C-171 Disposition of fines and forfeitures.** (a) All fines and forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any section or provision of the state traffic laws and all assessments collected relating to the commission of traffic infractions shall be paid to the director of finance of the State.

(b) In addition to any monetary assessment imposed for a traffic infraction, the court may impose penalties on all outstanding traffic citations and judgments. The penalties shall be established pursuant to rules approved by the supreme court; provided that the amounts of the penalties shall be based

upon a graduated scale that increases in proportion to the length of the delinquency. Any interest penalty imposed as provided in this section may be waived by the court for good cause. All penalties collected for such outstanding citations and judgments shall be paid to the director of finance of the State. [L 1978, c 111, pt of §2; am L 1993, c 214, §17; am L 1997, c 154, §1]

Cross References

Adjudication of traffic infractions, see chapter 291D.

" **[\$291C-171.5] Collection of fines and costs.** (a) Unless discharged by payment or service of imprisonment in default of a fine, a fine may be collected in the same manner as a judgment in a civil action.

(b) Costs may be collected in the same manner as a judgment in a civil action, but shall not be deemed part of the penalty, and no person shall be imprisoned under this section in default of payment of costs.

(c) The state attorney general may institute proceedings to collect the fine, and costs, including interest and attorney's fees, as a civil judgment in the court of appropriate jurisdiction. [L 1996, c 137, §1]

" **§291C-172 Refusal to provide identification.** (a) Except as provided in subsection (b), any person detained for a violation of this chapter shall provide the person's name and address, or any proof thereof, or both, upon the lawful order or direction of any police officer in the course and scope of the officer's duties pursuant to this chapter.

(b) A pedestrian who is detained for violating part VII of this chapter shall provide the person's name and address upon the lawful order or direction of a police officer in the course and scope of the officer's duties. If the officer has reasonable grounds to believe that the person is being deceptive or misleading in providing the person's name and address, the person shall provide such proof thereof, upon the lawful order or direction of the police officer. [L 1978, c 111, pt of §2; am L 1984, c 215, §1; am L 1995, c 169, §1]

" **[\$291C-173] Interpretation.** Wherever consistent with the context of the state traffic laws, words in the present, past or future shall be construed to be interchangeable with and to include any other tense; the masculine gender shall be construed to include the feminine gender; and words in the singular number shall be construed to include the plural; and in the plural to

include the singular, and each shall be construed to be interchangeable with the other. [L 1978, c 111, pt of §2]

" **[§291C-174] Severability.** If any provision of the state traffic laws is held for any reason invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of the state traffic laws. [L 1978, c 111, pt of §2]

"[PART XVI.] SPECIAL RULES FOR MOPEDS

[§291C-191] Definition. As used in this part "FMVSS" means Federal Motor Vehicle Safety Standards as prescribed in Title 49, Part 571, Code of Federal Regulations. [L 1978, c 175, pt of §15]

" **[§291C-192] Effect of violations; vicarious responsibility; jurisdiction.** (a) It is a violation for any person to do any act forbidden or fail to perform any act required in this part, except as otherwise provided by law.

(b) Any negligence, misconduct, or violation of this part by a minor while driving a moped shall be imputed to the parent or guardian having custody of such minor, which person shall be jointly and severally liable with the minor for any damages caused by such negligence or misconduct and any penalty assessed by the courts for such violation.

(c) This part applies to every person driving a moped upon any roadway or highway or any other publicly owned place under the jurisdiction of the State or any county. [L 1978, c 175, pt of §15]

" **[§291C-193] 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 1978, c 175, pt of §15]

Cross References

Same, see §291-13.

" **§291C-194 Driver's license required.** (a) No person shall drive a moped unless the person:

- (1) Possesses a valid driver's license of any category listed in section 286-102 or 286-239; and

(2) Meets the requirements of section 286-105(3).

(b) The driver of a moped shall, upon the demand of a police officer, exhibit the driver's driver's license or instruction permit.

(c) Any person who is convicted of violating this section shall be subject to penalties as provided under section 291C-161(b) and [(f)]. [L 1978, c 175, pt of §15; am L 1979, c 107, §1; gen ch 1985; am L 1998, c 86, §1; am L 2002, c 37, §2]

" **§291C-195 Driving of mopeds.** (a) No person less than fifteen years of age shall drive a moped on a highway, street, roadway, or any other public property in the State. No person less than eighteen years of age shall drive a moped unless the person wears a safety helmet securely fastened with a chin strap. The safety helmet shall meet the specifications and requirements established by rules adopted by the director.

(b) No person shall drive a moped except while sitting astride the seat, facing forward, with one leg on each side of the moped.

(c) No person shall drive a moped which is carrying any other person nor shall any person other than the driver ride upon a moped.

(d) Subsections (b) and (c) shall not apply to three-wheeled mopeds designed to carry a driver and passenger seated side by side.

(e) Three-wheeled mopeds shall be insured for liability and property damage, excluding personal injury protection. [L 1978, c 175, pt of §15; am L 2006, c 63, §1; am L 2008, c 197, §1]

" **§291C-196 Driving mopeds on roadways.** (a) Every person driving a moped, except a three-wheeled moped, upon a roadway at a speed less than the normal speed of traffic moving in the same direction at such time shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction, except under any of the following situations:

- (1) When preparing for a left turn at an intersection or into a private road or driveway, except where prohibited by official traffic-control devices;
- (2) When reasonably necessary to avoid conditions (including, but not limited to fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lanes) that make it unsafe to continue along the right-hand curb or edge; and

(3) When a roadway is designated and signposted to carry traffic in one direction only and has two or more marked traffic lanes, a person operating a moped may ride as near to the left-hand side of the roadway as practicable.

(b) Persons driving mopeds upon a roadway shall drive in single file.

(c) No person shall drive a moped on any sidewalk or area intended for use as a sidewalk, nor shall any person drive a moped on any path or other area intended for the exclusive use of pedestrians.

(d) A three-wheeled moped shall be restricted to traveling on roadways with a posted speed limit of thirty-five miles per hour or less. [L 1978, c 175, pt of §15; am L 1982, c 38, §1; am L 2008, c 197, §2]

" **§291C-197 Driving mopeds on bicycle lanes and paths.** (a) Wherever bicycle lanes are provided on the roadway, moped drivers shall use such bicycle lanes.

(b) The director of transportation by rule and the counties by ordinance may with respect to bicycle paths under their respective jurisdictions restrict or prohibit the use of such bicycle paths by mopeds. Signs clearly visible to an ordinarily observant person indicating the restriction or prohibition shall be placed along bicycle paths so designated and every moped driver shall obey the directions thereof.

(c) This section shall not apply to a three-wheeled moped. [L 1978, c 175, pt of §15; am L 2008, c 197, §3]

" **[§291C-198] Speed restrictions on mopeds.** (a) No person shall drive a moped at a speed other than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing.

(b) No person shall drive a moped at a speed greater than thirty-five miles per hour (fifty-eight kilometers per hour). [L 1978, c 175, pt of §15]

" **[§291C-199] Clinging to vehicles, bicycles, etc.** No person driving a moped shall attach oneself or the moped to any other vehicle, nor permit the rider of a bicycle, coaster, sled, or toy vehicle or any person on roller skates to be or become attached to the moped or the driver. [L 1978, c 175, pt of §15; gen ch 1985]

" **[§291C-200] Use of lamps on mopeds.** Every moped moving upon a highway from thirty minutes after sunset until thirty minutes before sunrise and at any other time when there is

insufficient ambient light to render clearly discernible persons and vehicles on the highway at a distance of two hundred feet (60.9 meters) ahead shall display a lighted head lamp and tail lamp; provided that every moped upon a highway within a tunnel shall at all times display a lighted head lamp and tail lamp. [L 1978, c 175, pt of §15]

" **[§291C-201] Renting or selling mopeds.** (a) Every person engaged in the retail business of selling or renting mopeds shall provide the person renting or purchasing a moped with a copy of the rules for mopeds as approved by the director of transportation.

(b) Every person renting a moped to another shall keep a record for two years of the registration number of the moped so rented, the name and address of the person to whom the moped is rented, the number of the driver's license of the latter person, and the date and place when and where the driver's license was issued. This record shall be open to inspection by any police officer or the examiner of drivers or the examiner of drivers' representative. [L 1978, c 175, pt of §15; gen ch 1985]

" **§291C-202 Moped equipment requirements and inspection.**

(a) Every moped offered for sale for use upon, sold for use upon, or used upon the roadways and highways shall be equipped with:

- (1) A motor having a maximum power output capability, measured at the motor output shaft, in accordance with the Society of Automotive Engineers standards, of two horsepower (one thousand four hundred ninety-two watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and which will propel the moped, unassisted, on a level surface at a maximum speed no greater than thirty miles per hour; provided that those mopeds, including those modified pursuant to section 291C-206, registered prior to April 23, 1998 shall continue to be subject to the prior thirty-five miles per hour maximum speed limitation; and
- (2) A direct or automatic power drive system which requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit.

(b) The director of transportation by rules and regulations, pursuant to chapter 91, shall establish criteria which shall comply with approved federal regulations for the following moped equipment: brake system; fuel system components; exhaust system components; steering system; handlebars; wheel

rims; fenders; a guard or protective covering for drive belts, chains and rotating components; seat or saddle; lamps and reflectors; equipment controls; speedometer; retracting stand; horn; and identification markings.

(c) The director of transportation by rules and regulations, pursuant to chapter 91, shall establish criteria and procedures for the annual safety inspection of every moped. Safety inspection criteria shall include the criteria established by the director of transportation under subsection (b). [L 1978, c 175, pt of §15; am L 1979, c 107, §2; am L 1998, c 25, §1]

Revision Note

"April 23, 1998" substituted for "the effective date of this Act".

" **§291C-203 Certification of compliance.** A person engaged in the business of selling mopeds shall provide to the director of finance of the county in which the mopeds are sold a certificate from the moped manufacturer that each class, type or model of moped offered for sale or sold meets the performance and equipment requirements of this part. [L 1978, c 175, pt of §15]

" **§291C-204 Defacing serial numbers, etc., of mopeds.** No person shall wilfully deface, destroy, or alter the serial number, a component part number, or identification mark placed on any moped by the manufacturer thereof.

This section shall not prohibit the restoration by an owner of an original mark or number when the restoration is authorized in writing by the director of finance, nor prohibit any manufacturer from placing in the ordinary course of business numbers or marks upon new mopeds or new parts thereof. Violation of this section shall be a misdemeanor and shall result in a fine of not more than \$500. [L 1978, c 175, pt of §15; am L 1996, c 12, §1]

" **§291C-205 Unlawful to possess certain mopeds and moped parts.** It shall be unlawful for any person to possess a moped, a moped motor, or any moped part knowing that the serial or identification number placed thereon by the manufacturer has been changed, altered, erased or mutilated.

This section shall not prohibit the possession of a moped, a moped motor, or any moped part whose original mark or number has been restored when the restoration is authorized in writing by the director of finance, nor prohibit any manufacturer from

placing in the ordinary course of business numbers or marks upon new mopeds or new parts thereof. Violation of this section shall be a misdemeanor and shall result in a fine of not more than \$500. [L 1978, c 175, pt of §15; am L 1996, c 12, §2]

" **§291C-206 Modifying moped motor; violation.** (a) A motor used to power a moped shall not be modified in any manner except as authorized by the motor manufacturer and any such modification shall not increase the power capacity of the motor above two horsepower (one thousand four hundred ninety-two watts).

(b) Any person who violates this section shall be fined not more than \$500. [L 1978, c 175, pt of §15; am L 1993, c 214, §18; am L 1998, c 25, §2]

" **§291C-207 Moped liability insurance; coverage for damage by rented or leased moped.** Every person who offers a moped for rent or lease shall insure the moped against loss resulting from liability imposed by law for bodily injury, death or property damage suffered by any person other than the owner or operator of the moped arising out of the ownership, maintenance or use of the moped. The moped liability insurance shall have a coverage of not less than \$25,000 per occurrence bodily injury and \$5,000 per occurrence property damage. [L 1978, c 175, pt of §15; am L 1979, c 161, §1]

"[PART XVII.] HIGH OCCUPANCY VEHICLE LANES

Note

Repeal of part, consisting of §§291C-221 to 227, on June 30, 1997, by L 1993, c 224, §6 and L 1995, c 25, §1 deleted by L 1997, c 309, §4.

§291C-221 Definitions. As used in this part unless the context otherwise requires:

"High occupancy vehicle" means a vehicle carrying at least the minimum number of persons designated by the director of transportation as indicated on official signs and other official traffic-control devices, and other vehicles as provided by rules adopted in accordance with chapter 91 or by county ordinance.

"High occupancy vehicle lane" means a designated lane of a laned roadway where the use of the designated lane is restricted to school buses, vehicles carrying at least the minimum number of persons designated by the director of transportation on official signs and other official traffic-control devices, and to other vehicles as provided by rules adopted in accordance

with chapter 91, or by county ordinance. [L 1993, c 224, pt of §1; am L 1997, c 309, §2; am L 1999, c 4, §2; am L 2007, c 42, §2]

" **[§291C-221.5] High occupancy vehicle lanes; emergencies.**

(a) Notwithstanding any law to the contrary, when a roadway includes one or more lanes for traffic moving in the same direction that include a high occupancy vehicle lane or zipper lane, and at least one lane other than a high occupancy vehicle lane or zipper lane is closed by law enforcement officers or emergency services personnel because of a traffic incident or accident, any motor vehicle, regardless of the number of persons carried, that can safely enter the high occupancy vehicle lane or zipper lane shall, subject to subsection (b), be allowed to use the high occupancy vehicle lane or zipper lane.

(b) For the purposes of subsection (a), the director of transportation shall have the authority to declare an emergency to open the use of high occupancy vehicle lanes and zipper lanes to all motor vehicles regardless of the number of persons carried.

(c) For the purposes of this section:

"Accident" means an unplanned event involving a motor vehicle, resulting in damage to one or more motor vehicles, property damage, or personal injury.

"Incident" includes any accident or issue that disrupts the flow of traffic. [L 2009, c 82, §2]

" **§291C-222 Designation of high occupancy vehicle lane.** (a)

The director of transportation by rules adopted in accordance with chapter 91, and the counties by ordinance, may designate high occupancy vehicle lanes as to roadways under their respective jurisdictions.

(b) Signs and other official traffic-control devices that designate high occupancy vehicle lanes shall be placed and maintained to advise drivers of the high occupancy vehicle requirement and the hours of usage. When the high occupancy vehicle lane also serves as a contraflow lane, the hours of usage as a high occupancy vehicle lane shall be the time when the lane is coned for use as a high occupancy vehicle lane.

(c) No motor vehicle shall be operated upon these lanes except in conformance with the instructions on the signs and other official traffic-control devices.

(d) A motorcycle may use any high occupancy vehicle lane, regardless of the number of occupants.

(e) Any vehicle authorized by rules adopted in accordance with chapter 91 may use any high occupancy vehicle lane, regardless of the number of occupants, when the use is

determined to enhance public safety and improves traffic conditions. [L 1993, c 224, pt of §1; am L 1997, c 309, §3]

" **[§291C-222.5] School buses; zipper lanes.** Notwithstanding any other law to the contrary, the director of transportation shall allow school buses, regardless of number of occupants, to be used on contraflow lanes that have been designated as zipper or zip lanes by the department of transportation. [L 1999, c 4, §1]

" **§291C-223 Summons or citation for illegal use of high occupancy vehicle lane.** Whenever any motor vehicle is observed operating in a high occupancy vehicle lane without the prescribed number of passengers, the officer observing the vehicle shall:

- (1) Cause a summons or citation as described in section 291C-165 to be issued at the scene of the violation to the operator of the vehicle; or
- (2) Make every reasonable effort to be seen by the operator of the vehicle and record evidence of the violation by taking any information displayed on the vehicle that may identify its registered owner and cause a summons or citation as described in section 291C-165 to be sent by certified or registered mail, with a return receipt that is postmarked within forty-eight hours of the time of the incident, to the registered owner of the vehicle at the address on record at the vehicle licensing division. If the end of the forty-eight hour period falls on a Saturday, Sunday, or holiday, then the ending period shall run until the end of the next day which is not a Saturday, Sunday, or holiday. Upon receipt, the registered owner shall be given fourteen days to respond to the summons or citation by:
 - (A) Paying a fine by mail; or
 - (B) Requesting that a hearing be set on the matter.A mail receipt signed by the registered owner is prima facie evidence of notification. [L 1993, c 224, pt of §1; am L 2000, c 240, §5; am L 2002, c 58, §2]

" **[§291C-224] Registered owner's responsibility for a summons or citation.** In any proceeding for a violation of this part, the information contained in the summons or citation issued in accordance with section 291C-223 shall be deemed evidence that the registered vehicle was violating the use of the high occupancy lane and the registered owner is responsible for its illegal operation. The registered owner shall be

determined by the identification of the vehicle's registration plates. [L 1993, c 224, pt of §1]

" **[\$291C-225] Failure to comply with summons or citation.**

If a violator of this part does not return an answer in response to a summons or citation within a period of fourteen days upon receipt of the summons or citation, the traffic violations bureau shall issue to the registered owner of the vehicle a penal summons ordering the registered owner's appearance in court. [L 1993, c 224, pt of §1]

" **[\$291C-226] Liability for rental or U-drive vehicle.**

Notwithstanding any other law to the contrary, if the registered owner of record is the lessor of a rental or U-drive motor vehicle, as defined in section 286-2 pursuant to a written lease agreement, the lessee at the time of the violation shall be responsible for the summons or citation. However, the lessor shall be responsible for the summons or citation if the lessor does not provide the court, having jurisdiction over the summons or citation, with the name and address of the lessee within forty-five days after a notice containing the date, time, and location of the violation and the license number of the vehicle is sent to lessor; provided further that the administrative judge of the court having jurisdiction over the summons or citation may waive the requirement of providing the name and address of the lessee and impose on the lessor an administrative fee of \$50 per citation. [L 1993, c 224, pt of §1]

" **§291C-227 Penalty.** A person who violates any provision of this part shall for a first conviction thereof be fined \$75; for conviction of a second offense committed within one year after the date of the first offense, the person shall be fined \$150; for conviction of a third or subsequent offense committed within one year after the date of the first offense, the person shall be fined \$200. [L 1993, c 224, pt of §1; am L 1997, c 60, §7]