
A BILL FOR AN ACT

RELATING TO DEBT.

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

1 PART I

2 SECTION 1. The legislature finds that Hawaii law allows
3 for the imposition of restrictions on an individual's ability to
4 obtain or renew a driver's license or motor vehicle registration
5 as a penalty for various unpaid monetary obligations that are
6 civil and not criminal in nature. The most concerning reason
7 for these punitive restrictions is the failure of an individual
8 to pay the fines and fees assessed in connection with non-
9 parking related traffic tickets within thirty days. This
10 practice of imposing driver's license or vehicle registration
11 "stoppers" may also occur as a consequence of other unpaid civil
12 obligations.

13 The legislature further finds that, according to a
14 Washington Post investigation, more than seven million
15 individuals nationwide have had their driver's licenses
16 suspended for unpaid court or administrative debt. The
17 investigation also found that Hawaii has a high percentage --



1 nine per cent -- of adults who have had their licenses suspended
2 for unpaid debt. The American Bar Association recently adopted
3 guidelines on preventing fines and fees that penalize poverty.
4 These guidelines instruct against driver's license suspensions
5 and the imposition of fines that result in substantial and undue
6 hardship. At least four states do not allow driver's licenses
7 to be suspended or restricted for unpaid court debt. The
8 inability to obtain or renew a driver's license prevents people
9 who have not committed a crime from getting to work, picking up
10 their children, keeping medical appointments, and ultimately
11 from escaping debt.

12 The purpose of this Act is to prohibit the imposition of
13 restrictions on a person's ability to obtain or renew a driver's
14 license or to register, renew the registration of, or transfer
15 or receive title to a motor vehicle, as a consequence of unpaid
16 monetary obligations. However, this Act shall not have any
17 effect on driver's license suspensions related to excessive
18 speeding, lack of motor vehicle insurance, or non-compliance
19 with a child support order.

20 PART II



1 SECTION 2. Section 286-109, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) Statutes of limitations and other provisions of this
4 chapter notwithstanding, no driver's license or instruction
5 permit shall be issued or renewed under this section, where the
6 examiner of drivers is notified by the district judge, traffic
7 violations bureaus of the district courts, or the judge of the
8 circuit court that the applicant has failed to respond to a
9 traffic citation or summons, or failed to appear in court after
10 an arrest for the violation of any traffic laws of a county,
11 this chapter or chapter 286G, 287, 290, 291, or 291C, or of any
12 motor vehicle insurance laws under article 10C of chapter 431,
13 or of any motorcycle or motor scooter insurance laws under
14 article 10G of chapter 431, and the same remains delinquent and
15 outstanding, or the applicant, has as of the time of the
16 application, failed to comply in full with all orders of the
17 court; provided that this subsection shall not apply to
18 outstanding and delinquent payments pursuant to chapter 291D;
19 provided further that the district court with whose order an
20 applicant has failed to comply in full, may approve the issuance
21 or renewal of a driver's license or instruction permit other



1 than a commercial driver's license upon conditions imposed by
2 the court for the satisfaction of the outstanding court order
3 and any other conditions as may be imposed by the court, if one
4 or more of the following conditions are met:

5 (1) The applicant is gainfully employed in a position that
6 requires driving and will be discharged if the
7 applicant is unable to drive; or

8 (2) The applicant has no access to alternative
9 transportation and therefore must drive to work;

10 provided further that if the applicant has failed to comply in
11 full with orders of the district court of more than one circuit,
12 the applicant shall obtain the approval of the district court of
13 each circuit in which the applicant has an outstanding court
14 order before a driver's license or instruction permit may be
15 issued or renewed under this subsection.

16 A driver's license or instruction permit issued or renewed
17 under this subsection shall be subject to immediate suspension
18 by the court upon the applicant's failure to remain in full
19 compliance with all conditions imposed by the court for the
20 issuance or renewal of the driver's license or instruction
21 permit. The examiner of drivers may place an indication of



1 restriction upon a driver's license or instruction permit issued
2 or renewed under this subsection. Proof of financial
3 responsibility under section 287-20 shall not apply to the
4 issuance or renewal of driver's licenses or instruction permits
5 under this subsection."

6 SECTION 3. Section 291D-5, Hawaii Revised Statutes, is
7 amended by amending subsection (d) to read as follows:

8 "(d) The notice of traffic infraction shall include the
9 following:

- 10 (1) A statement of the specific traffic infraction for
11 which the notice was issued;
- 12 (2) Except in the case of parking-related traffic
13 infractions, a brief statement of the facts;
- 14 (3) A statement of the total amount to be paid for each
15 traffic infraction, which amount shall include any
16 fee, surcharge, or cost required by statute,
17 ordinance, or rule, and any monetary assessment,
18 established for the particular traffic infraction
19 pursuant to section 291D-9, to be paid by the driver
20 or registered owner of the vehicle, which shall be
21 uniform throughout the State;



- 1 (4) A statement of the options provided in section 291D-
2 6(b) for answering the notice and the procedures
3 necessary to exercise the options;
- 4 (5) A statement that the person to whom the notice is
5 issued must answer, choosing one of the options
6 specified in section 291D-6(b), within twenty-one days
7 of issuance of the notice;
- 8 (6) A statement that failure to answer the notice of
9 traffic infraction within twenty-one days of issuance
10 shall result in the entry of judgment by default for
11 the State and may result in the assessment of a late
12 penalty[, and, that if the person to whom the notice
13 was issued fails to pay the total amount specified in
14 the default judgment within an additional thirty days
15 or to otherwise take action to set aside the default,
16 notice shall be sent to the director of finance of the
17 appropriate county.
- 18 ~~(A) That the person to whom the notice of infraction~~
19 ~~not involving parking was issued shall not be~~
20 ~~permitted to renew or obtain a driver's license,~~
21 ~~or~~



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

8 (7) A statement that, at a hearing requested to contest
9 the notice of traffic infraction conducted pursuant to
10 section 291D-8, no officer shall be present unless the
11 driver timely requests the court to have the officer
12 present, and that the standard of proof to be applied
13 by the court is whether a preponderance of the
14 evidence proves that the specified traffic infraction
15 was committed;

16 (8) A statement that, at a hearing requested for the
17 purpose of explaining mitigating circumstances
18 surrounding the commission of the infraction or in
19 consideration of a written request for mitigation, the
20 person shall be considered to have committed the
21 traffic infraction;



1 (9) A space in which the signature of the person to whom
2 the notice was issued may be affixed; and

3 (10) The date, time, and place at which the person to whom
4 the notice was issued must appear in court, if the
5 person is required by the notice to appear in person
6 at the hearing."

7 SECTION 4. Section 291D-7, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By amending subsections (a), (b), and (c) to read:

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

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

17 (1) In the case of a traffic infraction where the person
18 requests a hearing at which the person will appear in
19 person to contest the infraction, the court shall
20 notify the person in writing of the date, time, and
21 place of hearing to contest the notice of traffic



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

- 13 (2) When a denying answer is accompanied by a written
14 statement of the grounds on which the person contests
15 the notice of traffic infraction, the court shall
16 proceed as provided in section 291D-8(a) and shall
17 notify the person of its decision, including the total
18 amount assessed, if any, by mailing the notice of
19 entry of judgment within forty-five days of the
20 postmarked date of the answer to the address provided
21 by the person in the denying answer, or if none is



1 given, to the address given when the notice of traffic
2 infraction was issued or, in the case of parking
3 violations, to the address at which the vehicle is
4 registered. The notice of entry of judgment also
5 shall advise the person, if it is determined that the
6 infraction was committed and judgment is entered in
7 favor of the State, that the person has the right,
8 within thirty days of entry of judgment, to request a
9 trial and shall specify the procedures for doing so.
10 The notice of entry of judgment shall also notify the
11 person, if an amount is assessed by the court for
12 monetary assessments, fees, surcharges, or costs, that
13 if the person does not request a trial within the time
14 specified in this paragraph, the total amount assessed
15 shall be paid within thirty days of entry of judgment.
16 ~~[The notice of entry of judgment shall inform the~~
17 ~~person that if the total amount is not paid within~~
18 ~~thirty days, the court shall take action as provided~~
19 ~~in section 291D-10.]~~



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

4 (1) In the case of a traffic infraction where the person
5 requests a hearing at which the person will appear in
6 person to explain mitigating circumstances, the court
7 shall notify the person in writing of the date, time,
8 and place of hearing to explain mitigating
9 circumstances. The notice of hearing shall be mailed
10 to the address stated in the answer, or if none is
11 given, to the address stated on the notice of traffic
12 infraction. The notification also shall advise the
13 person that, if the person fails to appear at the
14 hearing, the court shall enter judgment by default in
15 favor of the State, as of the date of the scheduled
16 hearing, and that the total amount stated in the
17 default judgment must be paid within thirty days of
18 entry of default judgment [~~, and, if it is not paid,~~
19 ~~that the court shall take action as provided in~~
20 ~~section 291D-10~~]; and



1 (2) If a written explanation is included with an answer
2 admitting commission of the infraction, the court
3 shall enter judgment for the State and, after
4 reviewing the explanation, determine the total amount
5 of the monetary assessments, fees, surcharges, or
6 costs to be assessed, if any. The court shall then
7 notify the person of the total amount to be paid for
8 the infraction, if any. There shall be no appeal from
9 the judgment. If the court assesses an amount for
10 monetary assessments, fees, surcharges, or costs, the
11 court shall also notify the person that the total
12 amount shall be paid within thirty days of entry of
13 judgment. ~~[The notice of entry of judgment also shall~~
14 ~~inform the person that if the total amount is not paid~~
15 ~~within thirty days, the court shall take action as~~
16 ~~provided in section 291D-10.] "~~

17 2. By amending subsection (e) to read:

18 "(e) Whenever judgment by default in favor of the State is
19 entered, the court shall mail a notice of entry of default
20 judgment to the address provided by the person when the notice
21 of traffic infraction was issued or, in the case of parking



1 infractions, to the address stated in the answer, if any, or the
2 address at which the vehicle is registered. The notice of entry
3 of default judgment shall advise the person that the total
4 amount specified in the default judgment shall be paid within
5 thirty days of entry of default judgment and shall explain the
6 procedure for setting aside a default judgment. [~~The notice of~~
7 ~~entry of default judgment shall also inform the person that if~~
8 ~~the total amount is not paid within thirty days, the court shall~~
9 ~~take action as provided in section 291D-10-.] Judgment by
10 default for the State entered pursuant to this chapter may be
11 set aside pending final disposition of the traffic infraction
12 upon written application of the person and posting of an
13 appearance bond equal to the amount of the total amount
14 specified in the default judgment and any other assessment
15 imposed pursuant to section 291D-9. The application shall show
16 good cause or excusable neglect for the person's failure to take
17 action necessary to prevent entry of judgment by default. [~~Upon~~
18 ~~receipt of the application and required appearance bond, the~~
19 ~~court shall take action to remove the restriction placed on the~~
20 ~~person's driver's license or the motor vehicle's registration~~
21 ~~and title imposed pursuant to section 291D-10-.] Thereafter, the~~~~



1 court shall determine whether good cause or excusable neglect
2 exists for the person's failure to take action necessary to
3 prevent entry of judgment by default. If so, the application to
4 set aside default judgment shall be granted, the default
5 judgment shall be set aside, and the notice of traffic
6 infraction shall be disposed of pursuant to this chapter. If
7 not, the application to set aside default judgment shall be
8 denied, the appearance bond shall be forfeited and applied to
9 satisfy amounts due under the default judgment, and the notice
10 of traffic infraction shall be finally disposed. In either
11 case, the court shall determine the existence of good cause or
12 excusable neglect and notify the person of its decision on the
13 application in writing."

14 SECTION 5. Section 291D-8, Hawaii Revised Statutes, is
15 amended by amending subsection (c) to read as follows:

16 "(c) If a person for whom a hearing has been scheduled, to
17 contest the notice of traffic infraction or to explain
18 mitigating circumstances, fails to appear at the hearing, the
19 court shall enter judgment by default for the State and take
20 action as provided in section 291D-7(e). [~~If the total amount~~
21 ~~of the monetary assessment, fees, surcharges, or costs is not~~



1 ~~paid within thirty days of entry of default judgment, the court~~
2 ~~shall take action as provided in section 291D-10.] "~~

3 SECTION 6. Section 291D-9, Hawaii Revised Statutes, is
4 amended by amending subsection (d) to read as follows:

5 "(d) The court may grant to a person claiming inability to
6 pay, an extension of the period in which the monetary assessment
7 shall be paid or may impose community service in lieu thereof.
8 ~~[If the assessment is not paid or the community service is not~~
9 ~~performed on or before the date established and the court has~~
10 ~~not extended the time, the court shall take action as provided~~
11 ~~in section 291D-10.] "~~

12 SECTION 7. Section 291D-12, Hawaii Revised Statutes, is
13 amended to read as follows:

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

19 (1) To conduct traffic infraction hearings and to impose
20 monetary assessments;



- 1 (2) To permit deferral of monetary assessment or impose
2 community service in lieu thereof;
- 3 (3) To dismiss a notice of traffic infraction, with or
4 without prejudice, or to set aside a judgment for the
5 State;
- 6 (4) To order temporary driver's license suspension or
7 driver's license reinstatement;
- 8 ~~[(5) To order the director of finance not to issue or renew~~
9 ~~the driver's license, or to register, renew the~~
10 ~~registration of, or issue title to a motor vehicle, of~~
11 ~~any person who has not paid a monetary assessment, has~~
12 ~~not performed community service in lieu thereof, or~~
13 ~~has not otherwise satisfied a judgment for the State~~
14 ~~entered pursuant to this chapter;~~
- 15 +(6)] (5) To approve the issuance or renewal of a driver's
16 license or instruction permit pursuant to section
17 286-109(c);
- 18 ~~[(7)]~~ (6) To issue penal summonses and bench warrants and
19 initiate contempt of court proceedings in proceedings
20 conducted pursuant to section 291D-13;



1 ~~[(8)]~~ (7) To issue penal summonses and bench warrants and
2 initiate failure to appear proceedings in proceedings
3 conducted pursuant to section 291D-5(d)(10); and

4 ~~[(9)]~~ (8) To exercise other powers the court finds
5 necessary and appropriate to carry out the purposes of
6 this chapter.

7 (b) A district court judge sitting in the traffic division
8 and hearing cases pursuant to this chapter shall not order the
9 director of finance to withhold issuing or renewing the driver's
10 license, or registering, renewing the registration of, or
11 issuing the title to a motor vehicle, of any person who has not
12 paid a monetary assessment, has not performed community service
13 in lieu thereof, or has not otherwise satisfied a judgment for
14 the State entered pursuant to this chapter."

15 SECTION 8. Section 291-4.6, Hawaii Revised Statutes, is
16 repealed.

17 ~~["§291-4.6] Driving after license suspended or denied for~~
18 ~~noncompliance with an order of support; penalties. (a) No~~
19 ~~person whose driver's license has been suspended, denied, or~~
20 ~~otherwise restricted pursuant to section 576D-13 shall operate a~~
21 ~~motor vehicle upon the public streets, roads, or highways of~~



1 ~~this State while the person's license remains suspended or~~
2 ~~denied.~~

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

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

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

10 ~~(B) A fine not less than \$250 but not more than~~
11 ~~\$1,000; and~~

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

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

19 ~~(A) Thirty days' imprisonment;~~

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



1 ~~(C) License suspension or denial shall continue until~~
2 ~~written authorization of compliance pursuant to~~
3 ~~section 576D-13 [is] issued by the child support~~
4 ~~enforcement agency, the office of child support~~
5 ~~hearings, or the family court."~~

6 SECTION 9. Section 291D-10, Hawaii Revised Statutes, is
7 repealed.

8 ~~["§291D-10 Restriction on driver's license and motor~~
9 ~~vehicle registration. (a) When the person issued a notice of~~
10 ~~traffic infraction not involving parking fails to pay the total~~
11 ~~amount of fines, fees, surcharges, costs, or monetary~~
12 ~~assessments that has been ordered, the court shall cause an~~
13 ~~entry to be made in the driver's license record so as to prevent~~
14 ~~the person from acquiring or renewing the person's driver's~~
15 ~~license until the outstanding amount is paid or the notice of~~
16 ~~traffic infraction is otherwise disposed of pursuant to this~~
17 ~~chapter.~~

18 ~~(b) In all cases where the registered owner of a motor~~
19 ~~vehicle to which a notice of traffic infraction has been issued~~
20 ~~fails to pay the total amount of fines, fees, surcharges, costs,~~
21 ~~or monetary assessments that have been ordered, the court shall~~



1 ~~cause an entry to be made in the motor vehicle's record so as to~~
2 ~~prevent issuance or renewal of the motor vehicle's certificate~~
3 ~~of registration and transfer of title to the motor vehicle until~~
4 ~~the outstanding amount is paid or the notice of traffic~~
5 ~~infraction is otherwise disposed of pursuant to this chapter;~~
6 ~~provided that if the traffic infraction involves an unpaid~~
7 ~~parking violation, this subsection shall not prevent the~~
8 ~~issuance or renewal of the motor vehicle's certificate of~~
9 ~~registration and transfer of title to the motor vehicle to~~
10 ~~another person, in which case the clerk of the court shall issue~~
11 ~~a clearance to effectuate the registration and transfer of~~
12 ~~title; and provided further that in no event shall a clearance:~~

- 13 ~~(1) Absolve the registered owner of the motor vehicle at~~
14 ~~the time the parking violation was incurred from~~
15 ~~paying the fine;~~
- 16 ~~(2) Prevent any subsequent issuance or renewal of the~~
17 ~~motor vehicle's certificate of registration and~~
18 ~~transfer of title to the motor vehicle; or~~
- 19 ~~(3) Otherwise encumber the title of that motor vehicle."]~~



1 PART III

2 SECTION 10. All existing restrictions on driver's licenses
3 and motor vehicle registrations or issuances or transfers of
4 title that have been imposed pursuant to section 291D-10, Hawaii
5 Revised Statutes, shall be void and unenforceable as of the
6 effective date of this Act. The judiciary shall work with the
7 counties to identify persons directly affected by the
8 restrictions imposed pursuant to section 291D-10, Hawaii Revised
9 Statutes, and take any actions necessary to effectuate the
10 purposes of this Act.

11 PART IV

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

14 SECTION 12. This Act shall take effect upon its approval.

15



Report Title:

Traffic Infractions; Driver Licensing; Vehicle Registration;
"Stoppers"

Description:

Prohibits the imposition of restrictions on a person's ability to obtain or renew a driver's license or to register, renew the registration of, or transfer or receive title to a motor vehicle, as a consequence of unpaid monetary obligations. Does not affect driver's license suspensions related to excessive speeding, lack of motor vehicle insurance, or non-compliance with a child support order. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

