
A BILL FOR AN ACT

RELATING TO FINANCIAL HARDSHIP.

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

1 SECTION 1. 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 the district court with whose order an



1 applicant has failed to comply in full, may approve the issuance
2 or renewal of a driver's license or instruction permit other
3 than a commercial driver's license upon conditions imposed by
4 the court for the satisfaction of the outstanding court order
5 and any other conditions as may be imposed by the court, if one
6 or more of the following conditions are met:

7 (1) The applicant is gainfully employed in a position that
8 requires driving and will be discharged if the
9 applicant is unable to drive; [e]

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

12 (3) The applicant or a member of the applicant's immediate
13 family requires medical treatment on a regular basis
14 and the applicant must drive in order for the
15 treatment to be obtained; provided that the applicant
16 is able to present, at a minimum, a statement signed
17 by a licensed physician or advanced practice
18 registered nurse that indicates that the applicant or
19 a member of the applicant's immediate family requires
20 medical treatment on a regular basis;



- 1 (4) The applicant must drive for necessary travel to
2 transport a minor dependent in the applicant's
3 immediate family to and from an institute of primary
4 or secondary instruction; provided that the chief
5 administrative officer or principal of the educational
6 institution certifies in writing that the minor
7 dependent is enrolled in the educational institution
8 and no form of public transportation or school bus is
9 available between the applicant's place of residence
10 and the educational institution; or
- 11 (5) The applicant is enrolled in a class, course, or
12 training program and must drive to and from the class
13 or course at an accredited school, college, or
14 university or a state-approved institution of
15 vocational or technical training; provided that the
16 applicant is able to present credible proof of
17 enrollment in the class, course, or training program;
18 provided further that if the applicant has failed to comply in
19 full with orders of the district court of more than one circuit,
20 the applicant shall obtain the approval of the district court of
21 each circuit in which the applicant has an outstanding court



1 order before a driver's license or instruction permit may be
2 issued or renewed under this subsection.

3 A driver's license or instruction permit issued or renewed
4 under this subsection shall be subject to immediate suspension
5 by the court upon the applicant's failure to remain in full
6 compliance with all conditions imposed by the court for the
7 issuance or renewal of the driver's license or instruction
8 permit. The examiner of drivers may place an indication of
9 restriction upon a driver's license or instruction permit issued
10 or renewed under this subsection. Proof of financial
11 responsibility under section 287-20 shall not apply to the
12 issuance or renewal of driver's licenses or instruction permits
13 under this subsection."

14 SECTION 2. Section 286-136, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§286-136 Penalty.** (a) Except as provided in subsection
17 (b), any person who violates section 286-102, 286-122, 286-130,
18 286-131, 286-132, 286-133, or 286-134 shall be fined not more
19 than \$1,000 or imprisoned not more than thirty days, or both.
20 Any person who violates any other section in this part shall be
21 fined not more than \$1,000.



1 (b) Any person who is convicted of violating section
2 286-102, 286-122, 286-130, 286-131, 286-132, 286-133, or 286-134
3 shall be subject to a minimum fine of \$500 and a maximum fine of
4 \$1,000, or imprisoned not more than one year, or both, if the
5 person has two or more prior convictions for the same offense in
6 the preceding five-year period.

7 (c) Any person cited under this section shall be given an
8 opportunity to demonstrate that the person's nonpayment or
9 inability to pay is not wilful. The judge shall make an
10 individualized assessment of the person's ability to pay based
11 on the totality of the circumstances, including but not limited
12 to the person's disposable income, financial obligations, and
13 liquid assets. If the judge determines that the person's
14 nonpayment or inability to pay is not wilful, the judge shall
15 enter an order that allows the person additional time for
16 payment, reduces the amount of each installment, or revokes the
17 fee or fine, or unpaid portion thereof, in whole or in part.

18 ~~(e)~~ (d) Notwithstanding subsections (a) and (b), a minor
19 under the age of eighteen under the jurisdiction of the family
20 court who is subject to this section shall either lose the right



1 to drive a motor vehicle until the age of eighteen or be subject
2 to a fine of \$500."

3 SECTION 3. Section 431:10C-117, Hawaii Revised Statutes,
4 is amended by amending subsection (a) to read as follows:

5 "(a) (1) Any person subject to this article in the capacity of
6 the operator, owner, or registrant of a motor vehicle
7 operated in this State, or registered in this State,
8 who violates any applicable provision of this article,
9 shall be subject to citation for the violation by any
10 county police department in a form and manner approved
11 by the traffic violations bureau of the district court
12 of the first circuit;

13 (2) Notwithstanding any provision of the Hawaii Penal
14 Code:

15 (A) Each violation shall be deemed a separate offense
16 and shall be subject to a fine of not less than
17 \$100 nor more than \$5,000 which shall not be
18 suspended except as provided in subparagraph (B);
19 and

20 (B) If the person is convicted of not having had a
21 motor vehicle insurance policy in effect at the



1 time the citation was issued, the fine shall be
2 \$500 for the first offense and a minimum of
3 \$1,500 for each subsequent offense that occurs
4 within a five-year period from any prior offense;
5 provided that the judge:

6 (i) Shall have the discretion to suspend all or
7 any portion of the fine if the defendant
8 provides proof of having a current motor
9 vehicle insurance policy; provided further
10 that upon the defendant's request, the judge
11 may grant community service in lieu of the
12 fine, of not less than seventy-five hours
13 and not more than one hundred hours for the
14 first offense, and not less than two hundred
15 hours nor more than two hundred seventy-five
16 hours for the second offense; and

17 (ii) May grant community service in lieu of the
18 fine for subsequent offenses at the judge's
19 discretion;

20 (3) In addition to the fine in paragraph (2), the court
21 shall either:



- 1 (A) Suspend the driver's license of the driver or of
2 the registered owner for:
- 3 (i) Three months for the first conviction; and
4 (ii) One year for any subsequent offense within a
5 five-year period from a previous offense;
6 provided that the driver or the registered owner
7 shall not be required to obtain proof of
8 financial responsibility pursuant to section 287-
9 20; or
- 10 (B) Require the driver or the registered owner to
11 keep a nonrefundable motor vehicle insurance
12 policy in force for six months;
- 13 (4) Any person cited under this section shall be given an
14 opportunity to demonstrate that the person's
15 nonpayment or inability to pay is not wilful. The
16 judge shall make an individualized assessment of the
17 person's ability to pay based on the totality of the
18 circumstances, including but not limited to the
19 person's disposable income, financial obligations, and
20 liquid assets. If the judge determines that the
21 person's nonpayment or inability to pay is not wilful,



1 the judge shall enter an order that allows the person
 2 additional time for payment, reduces the amount of
 3 each installment, or revokes the fee or fine, or
 4 unpaid portion thereof, in whole or in part;

5 ~~[(4)]~~ (5) Any person cited under this section shall have an
 6 opportunity to present a good faith defense, including
 7 but not limited to lack of knowledge or proof of
 8 insurance. The general penalty provision of this
 9 section shall not apply to:

10 (A) Any operator of a motor vehicle owned by another
 11 person if the operator's own insurance covers
 12 such driving;

13 (B) Any operator of a motor vehicle owned by that
 14 person's employer during the normal scope of that
 15 person's employment; or

16 (C) Any operator of a borrowed motor vehicle if the
 17 operator holds a reasonable belief that the
 18 subject vehicle is insured;

19 ~~[(5)]~~ (6) In the case of multiple convictions for driving
 20 without a valid motor vehicle insurance policy within
 21 a five-year period from any prior offense, the court,



1 in addition to any other penalty, shall impose the
2 following penalties:

- 3 (A) Imprisonment of not more than thirty days;
4 (B) Suspension or revocation of the motor vehicle
5 registration plates of the vehicle involved;
6 (C) Impoundment, or impoundment and sale, of the
7 motor vehicle for the costs of storage and other
8 charges incident to seizure of the vehicle, or
9 any other cost involved pursuant to section
10 431:10C-301; or
11 (D) Any combination of those penalties; and

12 [~~6~~] (7) Any violation as provided in subsection (a)(2)(B)
13 shall not be deemed to be a traffic infraction as
14 defined by chapter 291D."

15 SECTION 4. Section 706-644, Hawaii Revised Statutes, is
16 amended by amending subsection (3) to read as follows:

17 "(3) The term of imprisonment for nonpayment of fee, fine,
18 or restitution shall be specified in the order of commitment,
19 and shall not exceed one day for each [~~\$25~~] \$50 of the fee or
20 fine, thirty days if the fee or fine was imposed upon conviction
21 of a violation or a petty misdemeanor, or one year in any other



H.B. NO. 2751

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H.B. NO. 2751

Report Title:

Financial Hardship; Restricted License; Traffic Offenses;
Contumacious Nonpayment

Description:

Expands the conditions for authorizing a restricted license. Provides judges with greater discretion to adjust the amount owed by a person who violates certain traffic offenses based on the person's inability to pay. Increases the amount of credit given to a contumacious person committed for nonpayment.

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

