

JAN 20 2023

A BILL FOR AN ACT

RELATING TO PENALTIES.

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

1 SECTION 1. The legislature finds that in 1993, the
2 legislature amended section 286-136, Hawaii Revised Statutes, to
3 "improve the system by which traffic offenses presently are
4 being processed in order to dispose expeditiously of these
5 cases". This amendment decriminalized certain traffic offenses
6 that were not considered serious and implemented a program for
7 drivers to settle their fines in less adversarial settings. The
8 purpose of this amendment was to expend resources on more
9 serious cases and allow law enforcement to focus on their patrol
10 duties.

11 The legislature recognizes that the impact of criminal
12 prosecution, rather than civil litigation, for violations of
13 section 286-102, Hawaii Revised Statutes, has severely strained
14 the criminal justice process. These offenses require resources
15 from the judiciary, county prosecutors, defense attorneys, and
16 law enforcement, while very few cases are resolved through a
17 trial on the merits.



1 The legislatures notes that persons who are convicted of
2 violations of section 286-102, Hawaii Revised Statutes, are
3 typically sentenced to large fines, which often result in
4 driver's license stoppers, or suspensions, that prevent the
5 person from maintaining a valid state driver's license in
6 compliance with the law.

7 Accordingly, the purpose of this Act is to:

- 8 (1) Re-examine and reduce the resource strain on private
9 and government actors in resolving violations of
10 section 286-102, Hawaii Revised Statutes, by amending
11 section 286-136, Hawaii Revised Statutes, to remove
12 violations of the applicable section as a criminal
13 offense; and
14 (2) Placing section 286-102, Hawaii Revised Statutes, in
15 the purview of the civil legal system, where other
16 similar traffic violations and infractions are already
17 governed and adjudicated.

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

20 "**§286-136 Penalty.** (a) Except as provided in subsection
21 (b) [~~r~~] or (c), any person who violates section [~~286-102,~~]



1 286-122, 286-130, 286-131, 286-132, 286-133, or 286-134 shall be
2 fined no more than \$1,000 or imprisoned no more than thirty
3 days, or both. Any person who violates any other section in
4 this part shall be fined no more than \$1,000.

5 (b) Any person who is convicted of violating section
6 ~~[286-102,]~~ 286-122, 286-130, 286-131, 286-132, 286-133, or
7 286-134 shall be subject to a minimum fine of \$500 and a maximum
8 fine of \$1,000, or imprisoned no more than one year, or both, if
9 the person has two or more prior convictions for the same
10 offense in the preceding five-year period.

11 (c) Any person found in violation of section 286-102 shall
12 be subject to a fine of not less than \$50 but not more than
13 \$300.

14 ~~[(e)]~~ (d) Notwithstanding subsections (a) ~~[and]~~, (b), and
15 (c), a minor under the age of eighteen under the jurisdiction of
16 the family court who is subject to this section shall either
17 lose the right to drive a motor vehicle until the age of
18 eighteen or be subject to a fine of \$500.

19 ~~[(d)]~~ (e) Any person subject to a fine under this section
20 and who fails to timely pay the fine shall be given an
21 opportunity to petition the court to demonstrate that the



1 person's nonpayment or inability to pay is not wilful; provided
2 that if the person petitions the court, the court shall make an
3 individualized assessment of the person's ability to pay based
4 upon the totality of the circumstances, including the person's
5 disposable income, financial obligations, and liquid assets;
6 provided further that if the court determines that the person's
7 nonpayment or inability to pay is not wilful, the court may
8 enter an order that allows additional time for payment; reduces
9 the amount of each installment; revokes the fee or fine, or
10 unpaid portion thereof, in whole or in part; or converts any
11 outstanding fine to community service."

12 SECTION 3. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

15 SECTION 4. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act shall take effect upon its approval.

18

INTRODUCED BY: 



S.B. NO. 1092

Report Title:

Penalties; Driver's License; Fines

Description:

Makes driving without a license a civil violation, punishable by fines of not less than \$50 and not more than \$300.

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