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# A BILL FOR AN ACT

RELATING TO NOISE CONTROL.

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

1 SECTION 1. Section 107-11, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:

3 "(c) Any person who violates any of the rules adopted by  
4 the comptroller shall be fined [~~not~~] no more than \$50 for each  
5 violation; provided that a person violating any provision of  
6 part III of chapter 291, or any rule adopted thereunder, shall  
7 be guilty of a traffic infraction under chapter [291D] \_\_\_ and  
8 shall be fined or otherwise penalized in accordance with part  
9 III of chapter 291."

10 SECTION 2. Section 109-7, Hawaii Revised Statutes, is  
11 amended by amending subsection (c) to read as follows:

12 "(c) Any person violating any rule of the stadium  
13 authority regulating parking or traffic on the stadium premises  
14 shall have committed a traffic infraction as set forth in  
15 chapter [291D,] \_\_\_, the adjudication of which shall be subject  
16 to the provisions contained therein."



1 SECTION 3. Section 127A-29, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) Any person violating any rule of the governor or  
4 mayor prescribed and adopted pursuant to this chapter and having  
5 the force and effect of law shall, if it shall be so stated and  
6 designated in the rule, be guilty of a violation, petty  
7 misdemeanor, or misdemeanor. The governor or mayor may state  
8 and designate the penalty applicable to the offense; provided  
9 that if a penalty is not stated and designated, the person shall  
10 be sentenced in accordance with chapter 706. If the offense and  
11 penalty are not stated and designated in the rule, the person  
12 shall be guilty of a misdemeanor and upon conviction, the person  
13 shall be fined no more than \$2,000, imprisoned no more than one  
14 year, or both.

15 In lieu of a violation, petty misdemeanor, or misdemeanor,  
16 the governor or mayor may state and designate the noncompliance  
17 of a rule as an emergency period infraction, as defined in  
18 section [~~291D-2.~~] \_\_\_\_-2. Any emergency period infraction so  
19 stated and designated in the rule shall be adjudicated pursuant  
20 to chapter [~~291D.~~] \_\_\_\_\_. A person guilty of an emergency period  
21 infraction shall be fined \$200 for each occurrence; provided



1 that the governor or mayor may state and designate in the rule a  
2 fine of a different amount."

3 SECTION 4. Section 183-5, Hawaii Revised Statutes, is  
4 amended by amending subsection (d) to read as follows:

5 "(d) Any person who violates any rule adopted by the  
6 department under this chapter regulating vehicular parking or  
7 traffic movement shall have committed a traffic infraction and  
8 be adjudicated as set forth in chapter [~~291D~~] \_\_\_\_\_. A person  
9 found to have committed a traffic infraction shall be fined no  
10 more than:

- 11 (1) \$100 for a first violation;
- 12 (2) \$200 for a second violation; and
- 13 (3) \$500 for a third or subsequent violation.

14 Except as provided in this subsection, the State shall be  
15 precluded from pursuing further civil legal action to recover  
16 administrative fines, fees, and costs, including attorney's fees  
17 and costs or monetary assessment against the person fined under  
18 this subsection."

19 SECTION 5. Section 184-5, Hawaii Revised Statutes, is  
20 amended by amending subsection (c) to read as follows:



1           "(c) Any person violating this chapter, any rule adopted  
 2 pursuant thereto, or the terms and conditions of any permit  
 3 issued thereunder, regulating vehicular parking or traffic  
 4 movement shall have committed a traffic infraction as set forth  
 5 in chapter [~~291D,~~] \_\_\_\_, the adjudication of which shall be  
 6 subject to the provisions contained therein. A person found to  
 7 have committed [~~such~~] a traffic infraction shall be fined [~~not~~]  
 8 no more than:

- 9           (1) \$100 for a first violation;
- 10          (2) \$200 for a second violation; and
- 11          (3) \$500 for a third or subsequent violation."

12           SECTION 6. Section 200-14, Hawaii Revised Statutes, is  
 13 amended by amending subsection (b) to read as follows:

14           "(b) Any person who violates any rule adopted by the  
 15 department under this part regulating vehicular parking or  
 16 traffic movement shall have committed a traffic infraction as  
 17 set forth in chapter [~~291D,~~] \_\_\_\_, the adjudication of which  
 18 shall be subject to the provisions contained therein. A person  
 19 found to have committed [~~such~~] a traffic infraction shall be  
 20 fined [~~not~~] no more than:

- 21          (1) \$100 for a first violation;



1 (2) \$200 for a second violation; and

2 (3) \$500 for a third or subsequent violation."

3 SECTION 7. Section 261-17.6, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) The director may enforce airport rules pertaining to  
6 vehicle parking at airports by imposing fines not to exceed \$50  
7 per violation or by removing the vehicle of the offender from  
8 the area within the airport's jurisdiction, or both; provided  
9 that a person violating any provision of part III of chapter  
10 291, or any rule adopted thereunder, shall be guilty of a  
11 traffic infraction under chapter [~~291D~~] \_\_\_ and shall be fined  
12 or otherwise penalized in accordance with part III of chapter  
13 291."

14 SECTION 8. Section 261-21, Hawaii Revised Statutes, is  
15 amended by amending subsection (c) to read as follows:

16 "(c) Any person violating any rule relating to parking of  
17 motor vehicles or equipment at a public airport, including  
18 baggage carts, dollies, and other similar devices, shall have  
19 committed a traffic infraction as set forth in chapter  
20 [~~291D~~], \_\_\_, the adjudication of which shall be subject to the  
21 provisions contained therein."



1 SECTION 9. Section 266-25, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) Any person who violates any rule adopted by the  
4 department of transportation under this part regulating  
5 vehicular parking or traffic movement shall have committed a  
6 traffic infraction as set forth in chapter [291D,] \_\_\_\_, the  
7 adjudication of which shall be subject to the provisions  
8 contained therein. A person found to have committed such a  
9 traffic infraction shall be fined [~~not~~] no more than:

- 10 (1) \$100 for a first violation;
- 11 (2) \$200 for a second violation; and
- 12 (3) \$500 for a third or subsequent violation."

13 SECTION 10. Section 286-109, Hawaii Revised Statutes, is  
14 amended by amending subsection (c) to read as follows:

15 "(c) Statutes of limitations and other provisions of this  
16 chapter notwithstanding, no driver's license or instruction  
17 permit shall be issued or renewed under this section, where the  
18 examiner of drivers is notified by the district judge, [~~traffic~~  
19 ~~and emergency period violations~~] adjudication of infractions  
20 bureaus of the district courts, or the judge of the circuit  
21 court that the applicant has failed to respond to a traffic



1 citation or summons, or failed to appear in court after an  
2 arrest for the violation of any traffic laws of a county, this  
3 chapter or chapter 286G, 287, 290, 291, or 291C, or of any motor  
4 vehicle insurance laws under article 10C of chapter 431, or of  
5 any motorcycle or motor scooter insurance laws under article 10G  
6 of chapter 431, and the same remains delinquent and outstanding,  
7 or the applicant, has as of the time of the application, failed  
8 to comply in full with all orders of the court; provided that  
9 this subsection shall not apply to outstanding and delinquent  
10 payments pursuant to chapter [~~291D~~] \_\_\_\_; provided further that  
11 the district court with whose order an applicant has failed to  
12 comply in full, may approve the issuance or renewal of a  
13 driver's license or instruction permit other than a commercial  
14 driver's license upon conditions imposed by the court for the  
15 satisfaction of the outstanding court order and any other  
16 conditions as may be imposed by the court, if one or more of the  
17 following conditions are met:

- 18 (1) The applicant is gainfully employed in a position that  
19 requires driving and will be discharged if the  
20 applicant is unable to drive; or



1           (2) The applicant has no access to alternative  
2           transportation and therefore must drive to work;  
3 provided further that if the applicant has failed to comply in  
4 full with orders of the district court of more than one circuit,  
5 the applicant shall obtain the approval of the district court of  
6 each circuit in which the applicant has an outstanding court  
7 order before a driver's license or instruction permit may be  
8 issued or renewed under this subsection.

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

20           SECTION 11. Section 291-53, Hawaii Revised Statutes, is  
21 amended to read as follows:





1           "**§291-53 Nontransferability; penalty.** The disability  
2 parking permit shall not be used by anyone other than the person  
3 with a disability to whom it is issued unless it is being used  
4 in connection with the transport of the person with a  
5 disability. An unauthorized person using the disability parking  
6 permit to obtain the special parking privileges authorized under  
7 this part or otherwise afforded by the State or counties, shall  
8 be guilty of a traffic infraction under chapter [~~291D~~] \_\_\_ and  
9 fined no less than \$250 nor more than \$500."

10           SECTION 12. Section 291-57, Hawaii Revised Statutes, is  
11 amended by amending subsections (a) and (b) to read as follows:

12           "(a) Any person who uses a parking space reserved for  
13 persons with disabilities who:

- 14           (1) Fails to properly display a disability parking permit;
- 15           (2) Displays an invalid disability parking permit;
- 16           (3) Uses a disability parking permit that was not issued  
17           to that person or to any passengers occupying the  
18           vehicle in the parking space; or
- 19           (4) With or without a disability parking permit:
  - 20           (A) Parks in an access aisle; or





1           "(a) Any person who parks a non-electric vehicle in a  
 2 space designated and marked as reserved for electric vehicles or  
 3 parks any vehicle in a parking space equipped with an electric  
 4 vehicle charging system while not actively charging shall be  
 5 guilty of a traffic infraction under chapter [291D] \_\_\_ and  
 6 shall be fined [~~not~~] no less than \$50 nor more than \$100, and  
 7 shall pay any costs incurred by the court related to assessing  
 8 the fine."

9           SECTION 14. Section 291C-131, Hawaii Revised Statutes, is  
 10 amended by amending subsection (g) to read as follows:

11           "(g) Violation of this section shall be considered an  
 12 offense as defined in section 701-107(5), shall not be subject  
 13 to the provisions of chapter [291D,] \_\_\_, and shall subject the  
 14 owner or driver of the vehicle, or both, to the following  
 15 penalties without possibility of probation or suspension of  
 16 sentence:

- 17           (1) For a first violation, by a fine of [~~not~~] no less than  
 18                 \$250 and [~~not~~] no more than \$500[+];
- 19           (2) For a second violation involving a vehicle or driver  
 20                 previously cited under this section within one year:



1 (A) Suspension of the vehicle registration or  
2 suspension of the license of the driver, or both,  
3 for [~~not~~] no less than five working days but  
4 [~~not~~] no more than ten working days; and

5 (B) A fine of [~~not~~] no less than \$500 and [~~not~~] no  
6 more than \$750[.]; and

7 (3) For a third or subsequent violation involving a  
8 vehicle or driver previously cited under this section  
9 within one year:

10 (A) Suspension of the vehicle registration or  
11 suspension of the license of the driver, or both,  
12 for a period of thirty calendar days; and

13 (B) A fine of [~~not~~] no less than \$750 and [~~not~~] no  
14 more than \$1,000.

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

19 For the purposes of this subsection, a truck-trailer  
20 combination and tractor-semitrailer combination, as they are  
21 defined in section 286-2, shall be considered as one vehicle."



1 SECTION 15. Section 291C-137, Hawaii Revised Statutes, is  
2 amended by amending subsection (g) to read as follows:

3 "(g) Any violation as provided in subsections (a) and (c)  
4 shall be deemed to be a traffic infraction as defined in section  
5 [~~291D-2.~~] -2."

6 SECTION 16. Section 291C-167, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§291C-167 Summons or citation on illegally parked**  
9 **vehicle.** Whenever any motor vehicle without a driver is found  
10 parked or stopped in violation of any of the restrictions  
11 contained in the state traffic laws, the officer or designated  
12 county employee finding the vehicle shall take its registration  
13 number and may take any other information displayed on the  
14 vehicle that may identify its registered owner and conspicuously  
15 shall affix to the vehicle a citation, as described in section  
16 291C-165, for the registered owner of record to answer as  
17 provided in chapter [~~291D.~~] \_\_\_\_\_."

18 SECTION 17. Chapter 291D, Hawaii Revised Statutes, is  
19 amended by renumbering the chapter to be appropriately  
20 designated by the revisor of statutes and to read as follows:

21 "**CHAPTER [291D] \_\_\_\_\_**





1 (3) Speed the disposition of contested cases through a  
2 hearing, similar to small claims proceedings, in which  
3 the rules of evidence will not apply and the court  
4 will consider as evidence the notice of traffic  
5 infraction, applicable police reports, or other  
6 written statements by the police officer who issued  
7 the notice, any other relevant written material, and  
8 any evidence or statements by the person contesting  
9 the notice of traffic infraction;

10 (4) Dispense in most cases with the need for witnesses,  
11 including law enforcement officers, to be present and  
12 for the participation of the prosecuting attorney;

13 (5) Allow judicial, prosecutorial, and law enforcement  
14 resources to be used more efficiently and effectively;  
15 and

16 (6) Save the taxpayers money and reduce their frustration  
17 with the judicial system by simplifying the traffic  
18 court process.

19 The legislature further finds that this chapter will not require  
20 expansion of the current traffic division of the district



1 courts, but will achieve greater efficiency through more  
2 effective use of existing resources of the district courts.

3 (b) The legislature finds that the pandemic related to the  
4 coronavirus disease 2019 necessitated the imposition of  
5 emergency period rules in an attempt to control the spread of  
6 the disease in the State. The thousands of violations of the  
7 emergency period rules caused an examination of the ability to  
8 impose infractions for lesser offenses as an alternative to  
9 using the Penal Code and to allow for more efficient use of the  
10 judicial system. The system of processing traffic infractions  
11 under this chapter was enacted in 1993 and has provided a useful  
12 mechanism for handling offenses deemed as infractions and is  
13 well-suited to certain types of violations of emergency period  
14 rules that are designated infractions by the governor or mayor  
15 under the state's emergency management laws.

16 (c) The legislature finds that excessive noise pollution  
17 is a serious problem in various areas across the State, which  
18 can travel through walls, closed doors, and windows at any time  
19 of day or night, and prevent many individuals and families from  
20 the peaceful enjoyment of their homes. While a reasonable  
21 amount of noise should be expected anywhere, and particularly in





1 those areas that are most densely populated, there must be  
2 reasonable noise limits, and a means for enforcing those limits,  
3 that is fair and predictable for everyone involved. To the  
4 extent that counties wish to enforce these noise limits via  
5 civil infractions, rather than criminal penalties, the system of  
6 processing traffic and emergency period infractions established  
7 under this chapter provides a suitable mechanism for handling  
8 these infractions.

9 ~~[\$291D-2]~~ §     -2 **Definitions.** As used in this chapter:

10 "Concurrent trial" means a trial proceeding held in the  
11 district or family court in which the defendant is tried  
12 simultaneously in a civil case for any charged [~~traffic~~  
13 ~~infraction or emergency period~~] qualified infraction and in a  
14 criminal case for any related criminal offense, with trials to  
15 be held in one court on the same date and at the same time.

16 "Emergency period infraction" means all occurrences of  
17 noncompliance with rules adopted by the governor or a mayor  
18 pursuant to chapter 127A, which are stated and designated in the  
19 rule as being an emergency period infraction.

20 "Hearing" means a proceeding conducted by the district  
21 court pursuant to section [~~291D-8~~]     -9 at which the person to



1 whom a notice of [~~traffic infraction or notice of emergency~~  
2 ~~period~~] qualified infraction was issued either admits to the  
3 infraction, contests the notice of [~~traffic infraction or notice~~  
4 ~~of emergency period~~] qualified infraction, or admits to the  
5 [~~traffic infraction or emergency period~~] qualified infraction  
6 but offers an explanation to mitigate the monetary assessment  
7 imposed.

8 "Noise control infraction" means all occurrences of  
9 noncompliance with noise-related ordinances adopted by  
10 applicable counties, which are stated and designated in the  
11 ordinances as being a noise control infraction.

12 "Notice of qualified infraction" means notice of emergency  
13 period infraction, notice of noise control infraction, or notice  
14 of traffic infraction.

15 "Notice of traffic infraction" includes a notice of parking  
16 infraction.

17 "Qualified infraction" means emergency period infraction,  
18 noise control infraction, or traffic infraction."

19 "Related criminal offense" means any criminal violation or  
20 crime, committed in the same course of conduct as a [~~traffie~~



1 ~~infraction or emergency period]~~ qualified infraction, for which  
2 the defendant is arrested or charged.

3 "Traffic infraction" means all violations of statutes,  
4 ordinances, or rules relating to traffic movement and control,  
5 including parking, standing, equipment, and pedestrian offenses,  
6 for which the prescribed penalties do not include imprisonment  
7 and that are not otherwise specifically excluded from coverage  
8 of this chapter.

9 "Trial" means a trial conducted by the district court  
10 pursuant to the rules of the district court and the Hawaii rules  
11 of evidence.

12 ~~[\$291D-3]~~ § -3 **Applicability.** (a) Notwithstanding any  
13 other provision of law to the contrary, all [~~traffic infractions~~  
14 ~~and emergency period]~~ qualified infractions, including  
15 infractions committed by minors, shall be adjudicated pursuant  
16 to this chapter, except as provided in subsection (b). This  
17 chapter shall be applied uniformly throughout the State and in  
18 all counties. No penal sanction that includes imprisonment  
19 shall apply to a violation of a state statute or rule, or county  
20 ordinance or rule, that would constitute a [~~traffic infraction~~  
21 ~~or an emergency period]~~ qualified infraction under this chapter.



1 No [~~traffic infraction or emergency period~~] qualified infraction  
2 shall be classified as a criminal offense.

3 (b) Where a defendant is charged with a [~~traffic~~  
4 ~~infraction or an emergency period~~] qualified infraction and the  
5 infraction is committed in the same course of conduct as a  
6 criminal offense for which the offender is arrested or charged,  
7 the [~~traffic infraction or emergency period~~] qualified  
8 infraction shall be adjudicated pursuant to this chapter;  
9 provided that the court may schedule any initial appearance,  
10 hearing, or trial on the [~~traffic infraction or emergency~~  
11 ~~period~~] qualified infraction at the same date, time, and place  
12 as the arraignment, hearing, or trial on the related criminal  
13 offense.

14 Notwithstanding this subsection and subsection (c), the  
15 court shall not schedule any initial appearance, hearing, or  
16 trial on the [~~traffic infraction or emergency period~~] qualified  
17 infraction at the same date, time, and place as the arraignment,  
18 hearing, or trial on the related criminal offense where the  
19 related criminal offense is a felony or is a misdemeanor for  
20 which the defendant has demanded a jury trial.



1 (c) If the defendant requests a trial pursuant to section  
2 [~~291D-13,~~]     -13, the trial shall be held in the district court  
3 of the circuit in which the [~~traffic infraction or emergency~~  
4 ~~period~~] qualified infraction was committed. If the court  
5 schedules a concurrent trial pursuant to paragraph (1), the  
6 concurrent trial shall be held in the appropriate district or  
7 family court of the circuit in which the [~~traffic infraction or~~  
8 ~~emergency period~~] qualified infraction was committed, whichever  
9 has jurisdiction over the related criminal offense charged  
10 pursuant to the applicable statute or rule of court; provided  
11 that:

12 (1) The district or family court, for the purpose of  
13 trial, may schedule a civil trial on the [~~traffic~~  
14 ~~infraction or emergency period~~] qualified infraction  
15 on the same date and at the same time as a criminal  
16 trial on the related criminal offense charged. The  
17 court shall enter a civil judgment as to the [~~traffic~~  
18 ~~infraction or emergency period~~] qualified infraction  
19 and a judgment of conviction or acquittal as to the  
20 related criminal offense following [~~such~~] the  
21 concurrent trial; and



1 (2) If trial on the [~~traffic infraction or emergency~~  
2 ~~period~~] qualified infraction is held separately from  
3 and before trial on any related criminal offense, the  
4 following shall be inadmissible in the prosecution or  
5 trial of the related criminal offense, except as  
6 expressly provided by the Hawaii rules of evidence:

7 (A) Any written or oral statement made by the  
8 defendant in proceedings conducted pursuant to  
9 section [~~291D-7(b)+~~] -8(b); and

10 (B) Any testimony given by the defendant in the trial  
11 on the [~~traffic infraction or emergency period~~]  
12 qualified infraction.

13 [~~Such~~] The statements or testimony shall not be deemed  
14 a waiver of the defendant's privilege against self-  
15 incrimination in connection with any related criminal  
16 offense.

17 (d) In no event shall section 701-109 preclude prosecution  
18 for a related criminal offense where a [~~traffic infraction or an~~  
19 ~~emergency period~~] qualified infraction committed in the same  
20 course of conduct has been adjudicated pursuant to this chapter.



1 (e) If the defendant fails to appear at any scheduled  
2 court date before the date of trial or concurrent trial and:

3 (1) The defendant's civil liability for the [~~traffic~~  
4 ~~infraction or emergency period~~] qualified infraction  
5 has not yet been adjudicated pursuant to section  
6 [~~291D-8,~~] -9, the court shall enter a judgment by  
7 default in favor of the State for the [~~traffic~~  
8 ~~infraction or emergency period~~] qualified infraction  
9 unless the court determines that good cause or  
10 excusable neglect exists for the defendant's failure  
11 to appear; or

12 (2) The defendant's civil liability for the [~~traffic~~  
13 ~~infraction or emergency period~~] qualified infraction  
14 has been adjudicated previously pursuant to section  
15 [~~291D-8,~~] -9, the judgment earlier entered in favor  
16 of the State shall stand unless the court determines  
17 that good cause or excusable neglect exists for the  
18 defendant's failure to appear.

19 (f) If the defendant fails to appear at any scheduled  
20 court date [~~prior to~~] before concurrent trial or fails to appear  
21 for concurrent trial scheduled pursuant to subsection (c) (1),



1 the court shall enter a disposition pursuant to the Hawaii rules  
2 of penal procedure for the criminal offense.

3 ~~[\$291D-3.5]~~ § -4 **U-drive vehicles; traffic**  
4 **infractions.** Notwithstanding any other law to the contrary,  
5 except those pertaining to the care and maintenance of the  
6 vehicle, if the registered owner of record is the lessor of a  
7 rental or U-drive motor vehicle, as defined in section 286-2,  
8 pursuant to a written lease agreement, the lessee at the time of  
9 the issuance of the traffic infraction shall be responsible for  
10 ~~[such]~~ the summons or citation; provided that the lessor shall  
11 be responsible for ~~[such]~~ the summons or citation if the lessor  
12 does not provide the court having jurisdiction over the summons  
13 or citation the name and address of the lessee within forty-five  
14 days after a notice containing the date, time, and location of  
15 the violation and the license number of the vehicle; provided  
16 further that if requested by the lessor in writing within forty-  
17 five days of ~~[such]~~ the notice of violation other than for  
18 parking citations, the administrative judge of the court having  
19 jurisdiction over the citation or summons shall waive the  
20 requirement of providing the name and address of the lessee by  
21 the lessor and impose an administrative fee of \$5 per citation





1 on the lessor, plus costs and fees not to exceed \$10 in total  
2 per violation, notwithstanding section 607-4 or other sections  
3 of the law, county ordinance, or any rule to the contrary. In  
4 the case of parking citations, the administrative judge of the  
5 court having jurisdiction over the citation or summons may waive  
6 the requirement of providing the name and address of the lessee  
7 by the lessor and impose an administrative fee of \$5 per parking  
8 citation on the lessor, plus costs and fees not to exceed \$10 in  
9 total per [~~such~~] violation, notwithstanding section 607-4 or  
10 other sections of the law, county ordinance, or any rule to the  
11 contrary.

12 ~~[\$291D-4]~~ § -5 **Venue and jurisdiction.** (a) All  
13 violations of state law, ordinances, or rules designated as  
14 [~~traffic infractions or emergency period~~] qualified infractions  
15 in this chapter shall be adjudicated in the district and circuit  
16 where the alleged infraction occurred, except as otherwise  
17 provided by law.

18 (b) Except as otherwise provided by law, jurisdiction is  
19 in the district court of the circuit where the alleged [~~traffic~~  
20 ~~infraction or emergency period~~] qualified infraction occurred.  
21 Except as otherwise provided in this chapter, district court



1 judges shall adjudicate [~~traffic infractions and emergency~~  
2 ~~period~~] qualified infractions.

3 ~~[\$291D-5]~~ §     -6 **Notice of infraction; form; determination**

4 **final unless contested.** (a) The notice of traffic infraction  
5 for moving violations, [~~and the~~] notice of emergency period  
6 infraction, and notice of noise control infraction shall include  
7 the summons for the purposes of this chapter. Whenever a notice  
8 of [~~traffic infraction or notice of emergency period~~] qualified  
9 infraction is issued, the person's signature, driver's license  
10 number or state identification number, electronic mail address,  
11 and current address shall be noted on the notice. If the person  
12 refuses to sign the notice of [~~traffic infraction or notice of~~  
13 ~~emergency period~~] qualified infraction, the officer shall record  
14 this refusal on the notice and issue the notice to the person.  
15 Anyone to whom a notice of [~~traffic infraction or notice of~~  
16 ~~emergency period~~] qualified infraction is issued under this  
17 chapter need not be arraigned before the court, unless required  
18 by rule of the supreme court.

19 (b) The forms for the notice of [~~traffic infraction and~~  
20 ~~notice of emergency period~~] qualified infraction shall be  
21 prescribed by rules of the district court, which shall be



1 uniform throughout the State; provided that each judicial  
2 circuit may include differing statutory, [~~rule, or~~] ordinance,  
3 or rule provisions on its respective notice of [~~traffic~~  
4 ~~infraction or notice of emergency period~~] qualified infraction.

5 (c) A notice of [~~traffic infraction or notice of emergency~~  
6 ~~period~~] qualified infraction that is generated by the use of  
7 electronic equipment or that bears the electronically stored  
8 image of any person's signature, or both, shall be valid under  
9 this chapter.

10 (d) The notice of [~~traffic infraction or notice of~~  
11 ~~emergency period~~] qualified infraction shall include the  
12 following:

13 (1) A statement of the specific infraction for which the  
14 notice was issued;

15 (2) Except in the case of parking-related traffic  
16 infractions, a brief statement of the facts;

17 (3) A statement of the total amount to be paid for each  
18 infraction, which amount shall include any fee,  
19 surcharge, or cost required by statute, ordinance, or  
20 rule, and any monetary assessment, established for the  
21 particular infraction pursuant to section [~~291D-~~



- 1           ~~97]~~     -10, to be paid by the person to whom the  
2           notice was issued, which shall be uniform throughout  
3           the State;
- 4           (4) A statement of the options provided in section [~~291D-~~  
5           ~~6(b)]~~     -7(b) for answering the notice and the  
6           procedures necessary to exercise the options;
- 7           (5) A statement that the person to whom the notice is  
8           issued shall answer, choosing one of the options  
9           specified in section [~~291D-6(b)-7]~~     -7(b), within  
10          twenty-one days of issuance of the notice;
- 11          (6) A statement that failure to answer the notice within  
12          twenty-one days of issuance shall result in the entry  
13          of judgment by default for the State and may result in  
14          the assessment of a late penalty;
- 15          (7) A statement that, at a hearing requested to contest  
16          the notice, pursuant to section [~~291D-87]~~     -9, no  
17          officer shall be present unless the person to whom the  
18          notice was issued timely requests the court to have  
19          the officer present, and that the standard of proof to  
20          be applied by the court is whether a preponderance of



1 the evidence proves that the specified infraction was  
2 committed;

3 (8) A statement that, at a hearing requested for the  
4 purpose of explaining mitigating circumstances  
5 surrounding the commission of the infraction or in  
6 consideration of a written request for mitigation, the  
7 person shall be considered to have committed the  
8 infraction;

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

11 (10) The date, time, and place at which the person to whom  
12 the notice was issued shall appear in court, if the  
13 person is required by the notice to appear in person  
14 at the hearing.

15 (e) In the case of traffic infractions involving parking  
16 or equipment, where the motor vehicle is found parked or stopped  
17 without a driver, the notice shall be affixed conspicuously to  
18 the vehicle as provided in section 291C-167 and shall include  
19 the information required by ~~[paragraphs (1) and (3) to (9) of~~  
20 ~~subsection (d)]~~ subsections (d) (1) and (3) to (9).



1           ~~[\$291D-6]~~ §       -7 **Answer required.** (a) A person who  
2 receives a notice of [~~traffic infraction or notice of emergency~~  
3 ~~period~~] qualified infraction shall answer the notice within  
4 twenty-one days of the date of issuance of the notice. There  
5 shall be included with the notice of [~~traffic infraction or~~  
6 ~~notice of emergency period~~] qualified infraction a preaddressed  
7 envelope directed to the [~~traffic and emergency period~~  
8 ~~violations~~] adjudication of infractions bureau of the applicable  
9 district court.

10           (b) Provided that the notice of [~~traffic infraction or~~  
11 ~~notice of emergency period~~] qualified infraction does not  
12 require an appearance in person at a hearing as set forth in  
13 section [~~291D-5(d)(10),~~]       -6(d)(10), in answering a notice of  
14 [~~traffic infraction or notice of emergency period~~] qualified  
15 infraction, a person shall have the following options:

16           (1) Admit the commission of the infraction in one of the  
17 following ways:

18           (A) By mail or in person, by completing the  
19 appropriate portion of the notice of [~~traffic~~  
20 ~~infraction, notice of emergency period~~] qualified  
21 infraction[] or preaddressed envelope and



1 submitting it to the authority specified on the  
2 notice together with payment of the total amount  
3 stated on the notice of [~~traffic infraction or~~  
4 ~~notice of emergency period~~] qualified infraction.

5 Payment by mail shall be in the form of a check,  
6 money order, or by an approved credit or debit  
7 card. Payment in person shall be in the form of  
8 United States currency, check, money order, or by  
9 an approved credit or debit card; or

10 (B) Via the Internet or by telephone, by submitting  
11 payment of the total amount stated on the notice  
12 of [~~traffic infraction or notice of emergency~~  
13 ~~period~~] qualified infraction. Payment via the  
14 Internet or by telephone shall be by an approved  
15 credit or debit card;

16 (2) Deny the commission of the infraction and request a  
17 hearing to contest the infraction by completing the  
18 appropriate portion of the notice of [~~traffic~~  
19 ~~infraction, notice of emergency period~~] qualified  
20 infraction, or preaddressed envelope and submitting  
21 it, either by mail or in person, to the authority



1 specified on the notice. In lieu of appearing in  
2 person at a hearing, the person may submit a written  
3 statement of grounds on which the person contests the  
4 notice of [~~traffic infraction or notice of emergency~~  
5 ~~period~~] qualified infraction, which shall be  
6 considered by the court as a statement given in court  
7 pursuant to section [~~291D-8(a)-7~~] -9(a); or  
8 (3) Admit the commission of the infraction and request a  
9 hearing to explain circumstances mitigating the  
10 infraction by completing the appropriate portion of  
11 the notice of [~~traffic infraction, notice of emergency~~  
12 ~~period~~] qualified infraction[~~7~~] or preaddressed  
13 envelope and submitting it, either by mail or in  
14 person, to the authority specified on the notice. In  
15 lieu of appearing in person at a hearing, the person  
16 may submit a written explanation of the mitigating  
17 circumstances, which shall be considered by the court  
18 as a statement given in court pursuant to section  
19 [~~291D-8(b)-7~~] -9(b).  
20 (c) When answering the notice of [~~traffic infraction or~~  
21 ~~notice of emergency period~~] qualified infraction, the person





1 shall affix the person's signature to the answer and ~~shall~~  
2 state the address at which the person will accept future  
3 mailings from the court. No other response shall constitute an  
4 answer for purposes of this chapter.

5 ~~§291D-7~~ §     -8 **Court action after answer or failure to**

6 **answer.** (a) When an admitting answer is received, the court  
7 shall enter judgment in favor of the State in the total amount  
8 specified in the notice of ~~traffic infraction or notice of~~  
9 ~~emergency period~~ qualified infraction.

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

12 (1) In the case of a ~~traffic infraction or emergency~~  
13 ~~period~~ qualified infraction where the person requests  
14 a hearing at which the person will appear in person to  
15 contest the infraction, the court shall notify the  
16 person in writing of the date, time, and place of  
17 hearing to contest the notice of ~~traffic infraction~~  
18 ~~or notice of emergency period~~ qualified infraction.  
19 The notice of hearing shall be mailed to the address  
20 stated in the denying answer, or if none is given, to  
21 the address stated on the notice of ~~traffic~~



1           ~~infraction or notice of emergency period]~~ qualified  
2           infraction. An electronic copy of the notice of  
3           hearing may be sent to the electronic mail address  
4           stated on the notice of infraction. The notification  
5           also shall advise the person that, if the person fails  
6           to appear at the hearing, the court shall enter  
7           judgment by default in favor of the State, as of the  
8           date of the scheduled hearing, and that the total  
9           amount specified in the default judgment shall be paid  
10          within thirty days of entry of default judgment; and  
11          (2) When a denying answer is accompanied by a written  
12          statement of the grounds on which the person contests  
13          the notice of [~~traffic infraction or notice of~~  
14          ~~emergency period]~~ qualified infraction, the court  
15          shall proceed as provided in section [~~291D-~~  
16          ~~8(a)]~~ -9(a) and shall notify the person of its  
17          decision, including the total amount assessed, if any,  
18          by mailing the notice of entry of judgment within  
19          forty-five days of the postmarked date of the answer  
20          to the address provided by the person in the denying  
21          answer, or if none is given, to the address given when



1 the notice of [~~traffic infraction or notice of~~  
2 ~~emergency period~~] qualified infraction was issued or,  
3 in the case of parking violations, to the address at  
4 which the vehicle is registered. An electronic copy  
5 of the notice of entry of judgment may be sent to the  
6 electronic mail address stated on the notice of  
7 infraction. The notice of entry of judgment also  
8 shall advise the person, if it is determined that the  
9 infraction was committed and judgment is entered in  
10 favor of the State, that the person has the right,  
11 within thirty days of entry of judgment, to request a  
12 trial and shall specify the procedures for doing so.  
13 The notice of entry of judgment shall also notify the  
14 person, if an amount is assessed by the court for  
15 monetary assessments, fees, surcharges, or costs, that  
16 if the person does not request a trial within the time  
17 specified in this paragraph, the total amount assessed  
18 shall be paid within thirty days of entry of judgment.

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



- 1           (1) In the case of a [~~traffic infraction or emergency~~  
2           period] qualified infraction where the person requests  
3           a hearing at which the person will appear in person to  
4           explain mitigating circumstances, the court shall  
5           notify the person in writing of the date, time, and  
6           place of hearing to explain mitigating circumstances.  
7           The notice of hearing shall be mailed to the address  
8           stated in the answer, or if none is given, to the  
9           address stated on the notice of [~~traffic infraction or~~  
10          notice of emergency period] qualified infraction. An  
11          electronic copy of the notice of hearing may be sent  
12          to the electronic mail address stated on the notice of  
13          infraction. The notification also shall advise the  
14          person that, if the person fails to appear at the  
15          hearing, the court shall enter judgment by default in  
16          favor of the State, as of the date of the scheduled  
17          hearing, and that the total amount stated in the  
18          default judgment shall be paid within thirty days of  
19          entry of default judgment; and
- 20          (2) If a written explanation is included with an answer  
21          admitting commission of the infraction, the court



1 shall enter judgment for the State and, after  
2 reviewing the explanation, determine the total amount  
3 of the monetary assessments, fees, surcharges, or  
4 costs to be assessed, if any. The court shall then  
5 notify the person of the total amount to be paid for  
6 the infraction, if any. There shall be no appeal from  
7 the judgment. If the court assesses an amount for  
8 monetary assessments, fees, surcharges, or costs, the  
9 court shall also notify the person that the total  
10 amount shall be paid within thirty days of entry of  
11 judgment.

12 (d) If the person fails to answer within twenty-one days  
13 of issuance of the notice of [~~traffic infraction or notice of~~  
14 ~~emergency period~~] qualified infraction, the court shall take  
15 action as provided in subsection (e).

16 (e) Whenever judgment by default in favor of the State is  
17 entered, the court shall mail a notice of entry of default  
18 judgment to the address provided by the person when the notice  
19 of [~~traffic infraction or notice of emergency period~~] qualified  
20 infraction was issued or, in the case of parking infractions, to  
21 the address stated in the answer, if any, or the address at



1 which the vehicle is registered. An electronic copy of the  
2 notice of entry of default judgment may be sent to the  
3 electronic mail address stated on the notice of infraction. The  
4 notice of entry of default judgment shall advise the person that  
5 the total amount specified in the default judgment shall be paid  
6 within thirty days of entry of default judgment and shall  
7 explain the procedure for setting aside a default judgment.  
8 Judgment by default for the State entered pursuant to this  
9 chapter may be set aside pending final disposition of the  
10 [~~traffic infraction or emergency period~~] qualified infraction  
11 upon written application of the person and posting of an  
12 appearance bond equal to the amount of the total amount  
13 specified in the default judgment and any other assessment  
14 imposed pursuant to section [~~291D-9.~~]     -10. The application  
15 shall show good cause or excusable neglect for the person's  
16 failure to take action necessary to prevent entry of judgment by  
17 default. Thereafter, the court shall determine whether good  
18 cause or excusable neglect exists for the person's failure to  
19 take action necessary to prevent entry of judgment by default.  
20 If so, the application to set aside default judgment shall be  
21 granted, the default judgment shall be set aside, and the notice



1 of [~~traffic infraction or notice of emergency period~~] qualified  
2 infraction shall be disposed of pursuant to this chapter. If  
3 not, the application to set aside default judgment shall be  
4 denied, the appearance bond shall be forfeited and applied to  
5 satisfy amounts due under the default judgment, and the notice  
6 of [~~traffic infraction or notice of emergency period~~] qualified  
7 infraction shall be finally disposed. In either case, the court  
8 shall determine the existence of good cause or excusable neglect  
9 and notify the person of its decision on the application in  
10 writing.

11 ~~§ 291D-8~~ § -9 **Hearings.** (a) In proceedings to contest  
12 a notice of [~~traffic infraction or notice of emergency period~~]  
13 qualified infraction where the person to whom the notice was  
14 issued has timely requested a hearing and appears at [~~such~~] the  
15 hearing:

16 (1) In lieu of the personal appearance by the officer who  
17 issued the notice of [~~traffic infraction or notice of~~  
18 ~~emergency period~~] qualified infraction, the court  
19 shall consider the notice of [~~traffic infraction or~~  
20 ~~notice of emergency period~~] qualified infraction, and  
21 any other written report made by the officer, if



1 provided to the court by the officer, together with  
2 any oral or written statement by the person to whom  
3 the notice of infraction was issued, or in the case of  
4 traffic infractions involving parking or equipment,  
5 the operator or registered owner of the motor vehicle;  
6 (2) The court may compel by subpoena the attendance of the  
7 officer who issued the notice of [~~traffic infraction~~  
8 ~~or notice of emergency period~~] qualified infraction,  
9 and other witnesses from whom it may wish to hear;  
10 (3) The standard of proof to be applied by the court shall  
11 be whether, by a preponderance of the evidence, the  
12 court finds that the [~~traffic infraction or emergency~~  
13 ~~period~~] qualified infraction was committed; and  
14 (4) After due consideration of the evidence and arguments,  
15 if any, the court shall determine whether commission  
16 of the [~~traffic infraction or emergency period~~]  
17 qualified infraction has been established. Where the  
18 commission of the [~~traffic infraction or emergency~~  
19 ~~period~~] qualified infraction has not been established,  
20 judgment in favor of the defendant, dismissing the  
21 notice of [~~traffic infraction or notice of emergency~~





1 ~~period]~~ qualified infraction or any count therein with  
2 prejudice, shall be entered in the record. Where it  
3 has been established that the [~~traffic infraction or~~  
4 ~~emergency period]~~ qualified infraction was committed,  
5 the court shall enter judgment in favor of the State  
6 and shall assess a monetary assessment pursuant to  
7 section [~~291D-9,~~] -10, together with any fees,  
8 surcharges, or costs. The court also shall inform the  
9 person of the right to request a trial pursuant to  
10 section [~~291D-13.~~] -13. If the person requests a  
11 trial at the time of the hearing, the court shall  
12 provide the person with the trial date as soon as  
13 practicable.

14 (b) In proceedings to explain mitigating circumstances  
15 where the person to whom the notice of [~~traffic infraction or~~  
16 ~~notice of emergency period]~~ qualified infraction was issued has  
17 timely requested a hearing and appears at [~~such~~] the hearing:

18 (1) The procedure shall be limited to the issue of  
19 mitigating circumstances. A person who requests to  
20 explain the circumstances shall not be permitted to



1 contest the notice of [~~traffic infraction or notice of~~  
2 ~~emergency period~~] qualified infraction;

3 (2) After the court has received the explanation, the  
4 court shall enter judgment in favor of the State and  
5 may assess a monetary assessment pursuant to section  
6 [~~291D-9,~~] -10, together with any fees, surcharges,  
7 or costs;

8 (3) The court, after receiving the explanation, may vacate  
9 the admission and enter judgment in favor of the  
10 defendant, dismissing the notice of [~~traffic~~  
11 ~~infraction, notice of emergency period~~] qualified  
12 infraction[~~7~~] or any count therein with prejudice,  
13 where the explanation establishes that the infraction  
14 was not committed; and

15 (4) There shall be no appeal from the judgment.

16 (c) If a person for whom a hearing has been scheduled, to  
17 contest the notice of [~~traffic infraction or notice of emergency~~  
18 ~~period~~] qualified infraction, or to explain mitigating  
19 circumstances, fails to appear at the hearing, the court shall  
20 enter judgment by default for the State and take action as  
21 provided in section [~~291D-7(e)-.~~] -8(e).



1           ~~[\$291D-9]~~ §     -10 **Monetary assessments.** (a) A person  
2 found to have committed a [~~traffic infraction or emergency~~  
3 ~~period~~] qualified infraction shall be assessed a monetary  
4 assessment not to exceed the maximum fine specified in the law  
5 or rule defining the [~~traffic infraction or emergency period~~]  
6 qualified infraction. The court shall consider a person's  
7 financial circumstances, if disclosed, in determining the  
8 monetary assessment.

9           (b) Notwithstanding section 291C-161 or any other law to  
10 the contrary, the district court of each circuit shall prescribe  
11 a schedule of monetary assessments for all [~~traffic infractions~~  
12 ~~and emergency period~~] qualified infractions, and any additional  
13 assessments to be imposed pursuant to subsection (c). The  
14 particular assessment to be entered on the notice of [~~traffic~~  
15 ~~infraction or notice of emergency period~~] qualified infraction  
16 pursuant to section [~~291D-5~~]     -6 shall correspond to the  
17 schedule prescribed by the district court. Except after  
18 proceedings conducted pursuant to section [~~291D-8~~]     -9 or a  
19 trial conducted pursuant to section [~~291D-13,~~]     -13, monetary  
20 assessments assessed pursuant to this chapter shall not vary  
21 from the schedule prescribed by the district court having



1 jurisdiction over the [~~traffic infraction or emergency period~~]  
2 qualified infraction.

3 (c) In addition to any monetary assessment imposed for a  
4 [~~traffic infraction or an emergency period~~] qualified  
5 infraction, the court may impose additional assessments for:

6 (1) Failure to pay a monetary assessment by the scheduled  
7 date of payment; or

8 (2) The cost of service of a penal summons issued pursuant  
9 to this chapter.

10 (d) Upon request of a person claiming inability to pay a  
11 monetary assessment, the court may grant an extension of the  
12 period in which the monetary assessment shall be paid or may  
13 impose community service in lieu thereof.

14 (e) At any point before full payment of a monetary  
15 assessment, any person who suffers a change in financial  
16 circumstances may request a hearing to modify the monetary  
17 assessment or to request community service in lieu thereof.

18 ~~[[S291D-11]]~~ § -11 **Time computation.** In computing any  
19 period of time prescribed or allowed by this chapter, the day of  
20 the act, event, or default from which the period of time begins  
21 to run shall not be included. The last day of the period so



1 computed shall be included, unless it is a Saturday, Sunday, or  
2 legal holiday in which event the period runs until the end of  
3 the next day that is not a Saturday, Sunday, or legal holiday.  
4 Intermediate Saturdays, Sundays, and legal holidays shall be  
5 included. Whenever an act required to be performed under this  
6 chapter may be accomplished by mail, the act shall be deemed to  
7 have been performed on the date of the postmark on the mailed  
8 article.

9 ~~[\$291D-12]~~ § -12 Powers of the district court judge  
10 sitting in the ~~[traffic and emergency period]~~ adjudication of  
11 infractions division. (a) A district court judge sitting in  
12 the ~~[traffic and emergency period]~~ adjudication of infractions  
13 division and hearing cases pursuant to this chapter shall have  
14 all the powers of a district court judge under chapter 604,  
15 including the following powers:

- 16 (1) To conduct ~~[traffic infraction and emergency period]~~  
17 qualified infraction hearings and to impose monetary  
18 assessments;
- 19 (2) To permit deferral of monetary assessment or impose  
20 community service in lieu thereof;



- 1 (3) To dismiss a notice of [~~traffic infraction or notice~~
- 2 ~~of emergency period~~] qualified infraction, with or
- 3 without prejudice, or to set aside a judgment for the
- 4 State;
- 5 (4) To order temporary driver's license suspension or
- 6 driver's license reinstatement;
- 7 (5) To approve the issuance or renewal of a driver's
- 8 license or instruction permit pursuant to section 286-
- 9 109(c);
- 10 (6) To issue penal summonses and bench warrants and
- 11 initiate contempt of court proceedings in proceedings
- 12 conducted pursuant to section [~~291D-13~~]     -13;
- 13 (7) To issue penal summonses and bench warrants and
- 14 initiate failure to appear proceedings in proceedings
- 15 conducted pursuant to section [~~291D-~~
- 16 ~~5(d)(10)~~]     -6(d)(10); and
- 17 (8) To exercise other powers the court finds necessary and
- 18 appropriate to carry out the purposes of this chapter.
- 19 (b) A district court judge sitting in the [~~traffic and~~
- 20 ~~emergency period~~] adjudication of infractions division and
- 21 hearing cases pursuant to this chapter shall not order the



1 director of finance to withhold issuing or renewing the driver's  
2 license, or registering, renewing the registration of, or  
3 issuing the title to a motor vehicle, of any person who has not  
4 paid a monetary assessment, has not performed community service  
5 in lieu thereof, or has not otherwise satisfied a judgment for  
6 the State entered pursuant to this chapter.

7 ~~§291D-13~~ §     -13 **Trial and concurrent trial.** (a) There  
8 shall be no right to trial unless the defendant contests the  
9 notice of [~~traffic infraction or notice of emergency period~~]  
10 qualified infraction pursuant to section [~~291D-8.~~]     -9. If,  
11 after proceedings to contest the notice of [~~traffic infraction~~  
12 ~~or emergency period~~] qualified infraction, a determination is  
13 made that the defendant committed the [~~traffic infraction or~~  
14 ~~emergency period~~] qualified infraction, judgment shall enter in  
15 favor of the State. The defendant may request a trial pursuant  
16 to the Hawaii rules of evidence and the rules of the district  
17 court; provided that any request for trial shall be made within  
18 thirty days of entry of judgment. If, after appearing in person  
19 at a hearing to contest the notice of [~~traffic infraction or~~  
20 ~~notice of emergency period~~] qualified infraction, the person  
21 requests a trial at the conclusion of the hearing, the court



1 shall provide the person with the trial date as soon as  
2 practicable.

3 (b) At the time of trial, the State shall be represented  
4 by a prosecuting attorney of the county in which the infraction  
5 occurred. The prosecuting attorney shall orally recite the  
6 charged civil [~~traffic infraction or emergency period~~] qualified  
7 infraction in court before commencement of the trial. Proof of  
8 the defendant's commission of the [~~traffic infraction or~~  
9 ~~emergency period~~] qualified infraction shall be by a  
10 preponderance of the evidence.

11 (c) If trial on the [~~traffic infraction or emergency~~  
12 ~~period~~] qualified infraction is held before trial on any related  
13 criminal offense, the following shall be inadmissible in the  
14 subsequent prosecution or trial of the related criminal offense:

- 15 (1) Any written or oral statement made by the defendant in  
16 proceedings conducted pursuant to section [~~291D-~~  
17 ~~7(b)+~~] -8(b); and  
18 (2) Any testimony given by the defendant in the [~~traffic~~  
19 ~~infraction or emergency period~~] qualified infraction  
20 trial.





1 The statement or testimony, or both, shall not be deemed a  
2 waiver of the defendant's privilege against self-incrimination  
3 in connection with any related criminal offense.

4 (d) In any concurrent trial, the State shall be  
5 represented by a prosecuting attorney of the county in which the  
6 infraction and related crime occurred. Proof of the defendant's  
7 commission of the infraction shall be by a preponderance of the  
8 evidence, and proof of the related criminal offense shall be by  
9 proof beyond a reasonable doubt. The concurrent trial shall be  
10 conducted pursuant to the rules of the appropriate court, the  
11 Hawaii rules of evidence, and the Hawaii rules of penal  
12 procedure.

13 ~~[\$291D-14]~~ § -14 Rules. (a) The supreme court may  
14 adopt rules of procedure for the conduct of all proceedings  
15 pursuant to this chapter.

16 (b) Chapter 626 shall not apply in proceedings conducted  
17 pursuant to this chapter, except for the rules governing  
18 privileged communications, and proceedings conducted under  
19 section ~~[291D-13.]~~ -13.

20 (c) Notwithstanding section 604-17, while the court is  
21 sitting in any matter pursuant to this chapter, the court shall



1 not be required to preserve the testimony or proceedings, except  
2 proceedings conducted pursuant to section [~~291D-13~~]     -13 and  
3 proceedings in which the [~~traffic infraction or emergency~~  
4 ~~period~~] qualified infraction is heard on the same date and time  
5 as any related criminal offense.

6 (d) The prosecuting attorney shall not participate in  
7 [~~traffic infraction or emergency period~~] qualified infraction  
8 proceedings conducted pursuant to this chapter, except  
9 proceedings pursuant to section [~~291D-13~~]     -13 and proceedings  
10 in which a related criminal offense is scheduled for  
11 arraignment, hearing, or concurrent trial.

12 (e) Chapter 91 shall not apply in proceedings before the  
13 court.

14 (f) Except as otherwise provided in section [~~291D-~~  
15 ~~37~~]     -3, chapter 571 and the Hawaii family court rules shall  
16 not apply in any proceedings conducted pursuant to this  
17 chapter."

18 SECTION 18. Section 291J-2, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "[~~§~~]**291J-2**[~~]~~ **Photo red light imaging detector systems**  
21 **program; established.** There [~~is~~] shall be established the photo



1 red light imaging detector systems program to enforce the  
2 traffic-control signal laws of the State, which may be  
3 implemented by the State or any county following completion of a  
4 pilot program in the city and county of Honolulu, on any state  
5 or county highways within the respective county. Nothing in  
6 this chapter shall be deemed to supersede or override any  
7 provision of chapter [~~291D-~~] \_\_\_\_."

8 SECTION 19. Section 291J-6, Hawaii Revised Statutes, is  
9 amended by amending subsections (e) and (f) to read as follows:

10 "(e) Upon receipt of the summons or citation, the  
11 registered owner shall answer as provided for in section [~~291D-~~  
12 ~~6-~~] \_\_\_\_-7. A record of the mailing of the summons or citations  
13 prepared in the ordinary course of business [~~is~~] shall be prima  
14 facie evidence of notification. The registered owner shall be  
15 determined by the identification of the motor vehicle license  
16 plate.

17 (f) Procedures regarding answering, court hearings, and  
18 court actions shall be pursuant to sections [~~291D-6, 291D-7,~~  
19 ~~291D-8, and 291D-13;~~] \_\_\_\_-7, \_\_\_\_-8, \_\_\_\_-9, and \_\_\_\_-13; provided  
20 that it shall not be a defense of any citation issued under this  
21 chapter that another person was driving the defendant's motor



1 vehicle at the time of incident, unless the motor vehicle was  
2 stolen as documented by a police report; provided further that  
3 any reference to the defendant's commission of the traffic  
4 infraction or similar language shall be interpreted to mean  
5 commission of the traffic infraction."

6 SECTION 20. Section 291J-8, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "[+]§291J-8[+] **Failure to comply with summons or citation.**

9 If the registered owner of the motor vehicle does not return an  
10 answer in response to a summons or citation within a period of  
11 thirty days from the date of the mailing of the summons or  
12 citation, the district court shall issue, pursuant to section  
13 [~~291D-7(e),~~] -8(e), a notice of entry of judgment of default  
14 to the registered owner of the motor vehicle."

15 SECTION 21. Section 304A-2602, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "[+]§304A-2602[+] **Fines and other penalties.** The board of  
18 regents may enforce its rules by imposing fines not to exceed  
19 \$100 per violation, or by removing the vehicle of the offender  
20 from the area within the university's jurisdiction, or both;  
21 provided that a person violating any provision of part III of



1 chapter 291, or any rule adopted thereunder, shall be guilty of  
 2 a traffic infraction under chapter [~~291D~~] \_\_\_ and shall be fined  
 3 or otherwise penalized in accordance with part III of chapter  
 4 291. The owner of any vehicle so towed away shall be  
 5 responsible for and pay all costs incurred in the towing and  
 6 storage. Any vehicle towed away and unclaimed thirty days  
 7 thereafter shall be sold at public auction by the university.  
 8 The university shall pay all costs of towing and storage and  
 9 other costs connected with the sale out of the university  
 10 parking revolving fund established under section [~~+~~]304A-  
 11 2275[~~+~~]. The fund shall be reimbursed for the costs from the  
 12 proceeds of the sale, and the remaining balance, if any, shall  
 13 be paid to the owner of the vehicle; provided that if the  
 14 proceeds of the sale are not claimed by the owner of the vehicle  
 15 within sixty days after notice, the proceeds shall be deposited  
 16 in the university parking revolving fund."

17 SECTION 22. Section 431:10C-117, Hawaii Revised Statutes,  
 18 is amended by amending subsection (a) to read as follows:

19 "(a) (1) Any person subject to this article in the capacity of  
 20 the operator, owner, or registrant of a motor vehicle  
 21 operated in this State, or registered in this State,



1           who violates any applicable provision of this article,  
 2           shall be subject to citation for the violation by any  
 3           county police department in a form and manner approved  
 4           by the [~~traffic and emergency period violations~~]  
 5           adjudication of infractions bureau of the district  
 6           court of the first circuit;

7           (2) Notwithstanding any provision of the Hawaii Penal  
 8           Code:

9           (A) Each violation shall be deemed a separate offense  
 10           and shall be subject to a fine of no less than  
 11           \$100 nor more than \$5,000 which shall not be  
 12           suspended except as provided in subparagraph (B);  
 13           and

14           (B) If the person is convicted of not having had a  
 15           motor vehicle insurance policy in effect at the  
 16           time the citation was issued, the fine shall be  
 17           \$500 for the first offense and a minimum of  
 18           \$1,500 for each subsequent offense that occurs  
 19           within a five-year period from any prior offense;  
 20           provided that the court:



- 1           (i) Shall have the discretion to suspend all or
- 2           any portion of the fine if the defendant
- 3           provides proof of having a current motor
- 4           vehicle insurance policy; provided further
- 5           that upon the defendant's request, the court
- 6           may grant community service in lieu of the
- 7           fine, of no less than seventy-five hours and
- 8           no more than one hundred hours for the first
- 9           offense, and no less than two hundred hours
- 10          nor more than two hundred seventy-five hours
- 11          for the second offense; and
- 12          (ii) May grant community service in lieu of the
- 13          fine for subsequent offenses at the court's
- 14          discretion;
- 15          (3) In addition to the fine in paragraph (2), the court
- 16          shall either:
- 17                (A) Suspend the driver's license of the driver or of
- 18                the registered owner for:
- 19                   (i) Three months for the first conviction; and
- 20                   (ii) One year for any subsequent offense within a
- 21                   five-year period from a previous offense;



1 provided that the driver or the registered owner  
2 shall not be required to obtain proof of  
3 financial responsibility pursuant to section  
4 287-20; or

5 (B) Require the driver or the registered owner to  
6 keep a nonrefundable motor vehicle insurance  
7 policy in force for six months;

8 (4) Any person subject to a fine under this section and  
9 who fails to timely pay the fine shall be given an  
10 opportunity to petition the court to demonstrate that  
11 the person's nonpayment or inability to pay is not  
12 wilful; provided that if the person petitions the  
13 court, the court shall make an individualized  
14 assessment of the person's ability to pay based upon  
15 the totality of the circumstances, including the  
16 person's disposable income, financial obligations, and  
17 liquid assets; provided further that if the court  
18 determines that the person's nonpayment or inability  
19 to pay is not wilful, the court may enter an order  
20 that allows additional time for payment; reduces the  
21 amount of each installment; revokes the fee or fine,





1 or unpaid portion thereof, in whole or in part; or  
2 converts any outstanding fine to community service;  
3 (5) Any person cited under this section shall have an  
4 opportunity to present a good faith defense, including  
5 lack of knowledge or proof of insurance; provided that  
6 the general penalty provision of this section shall  
7 not apply to[+] any operator of:  
8 (A) [~~Any operator of a~~] A motor vehicle owned by  
9 another person if the operator's own insurance  
10 covers [~~such~~] the driving;  
11 (B) [~~Any operator of a~~] A motor vehicle owned by that  
12 person's employer during the normal scope of that  
13 person's employment; or  
14 (C) [~~Any operator of a~~] A borrowed motor vehicle if  
15 the operator holds a reasonable belief that the  
16 subject vehicle is insured;  
17 (6) In the case of multiple convictions for driving  
18 without a valid motor vehicle insurance policy within  
19 a five-year period from any prior offense, the court,  
20 in addition to any other penalty, shall impose the  
21 following penalties:



- 1 (A) Imprisonment of no more than thirty days;
- 2 (B) Suspension or revocation of the motor vehicle
- 3 registration plates of the vehicle involved;
- 4 (C) Impoundment, or impoundment and sale, of the
- 5 motor vehicle for the costs of storage and other
- 6 charges incident to seizure of the vehicle, or
- 7 any other cost involved pursuant to section
- 8 431:10C-301; or
- 9 (D) Any combination of those penalties; and
- 10 (7) Any violation as provided in paragraph (2)(B) shall
- 11 not be deemed to be a traffic infraction as defined by
- 12 chapter [~~291D.~~] \_\_\_\_."

13 SECTION 23. Section 437D-17.5, Hawaii Revised Statutes, is  
 14 amended to read as follows:

15 "**§437D-17.5 Rental agreements; unpaid traffic infractions.**

16 Pursuant to section [~~291D-3.5,~~]     -4, or other sections of the  
 17 law and except for summons, citations, or violations relating to  
 18 the care and maintenance of a rental motor vehicle, the lessor,  
 19 as the registered owner of the rental motor vehicle, may be  
 20 responsible for fines, costs, penalties, fees, or other charges  
 21 related to traffic infractions of a motor vehicle while being



1 leased or rented to a lessee. The lessor may adopt a policy of  
2 charging the lessee the actual amount paid for the traffic  
3 infractions to the court or other state government agency or  
4 county government plus an administrative fee not to exceed out-  
5 of-pocket expenses documented by receipts plus up to four hours  
6 of work multiplied by Hawaii's prevailing minimum wage relating  
7 to research of files and communications with the court, county  
8 government, or governmental agencies and lessee; provided that  
9 every rental agreement of a lessor adopting the policy [~~must~~  
10 shall disclose, at a minimum, in plain language and in at least  
11 ten-point bold typeface print:

- 12 (1) The maximum estimated amount of the administrative fee  
13 to be charged; and
- 14 (2) Language encouraging the lessee to pay directly to the  
15 court, county government, or other appropriate  
16 government agency the applicable fines, costs,  
17 monetary assessments, penalties, fees, surcharges, or  
18 other charges."

19 SECTION 24. Section 571-41, Hawaii Revised Statutes, is  
20 amended by amending subsection (f) to read as follows:



1           "(f) The judge, or the senior judge if there is more than  
2 one, may by order confer concurrent jurisdiction on a district  
3 court created under chapter 604 to hear and dispose of cases of  
4 violation of traffic laws~~[7]~~ or ordinances, noise control  
5 ordinances, or emergency period rules by children, provision to  
6 the contrary in section 571-11 or elsewhere notwithstanding.  
7 The exercise of jurisdiction over children by district courts  
8 shall, nevertheless, be considered noncriminal in procedure and  
9 result in the same manner as though the matter had been  
10 adjudicated and disposed of by a family court."

11           SECTION 25. Sections 286-245, 287-3, and 291C-225, Hawaii  
12 Revised Statutes, are amended by substituting the phrase  
13 "adjudication of infractions bureau", or similar phrase,  
14 wherever the phrase "traffic and emergency period violations  
15 bureau", or similar phrase, appears, as the context requires.

16           SECTION 26. In renumbering chapter 291D, Hawaii Revised  
17 Statutes, pursuant to section 17 of this Act, the revisor of  
18 statutes shall place the chapter in a more appropriate division  
19 or title of the Hawaii Revised Statutes.

20           SECTION 27. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



1 , SECTION 28. This Act shall take effect on June 30, 3000.



**Report Title:**

Honolulu Prosecuting Attorney Package; Noise Pollution; County Ordinances; Civil Penalties

**Description:**

Allows for noise control infractions to be processed under the traffic and emergency period infractions adjudication process. Grants the district court concurrent jurisdiction over noise control infractions committed by minors. Effective 6/30/3000. (HD1)

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

