

ACT 129

H.B. NO. 862

A Bill for an Act Relating to Traffic Offenses.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 291C, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

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

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

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

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

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

- (1) For a first offense not preceded by a prior conviction for an offense under this section in the preceding five years:
 - (A) A fine of not less than \$500 and not more than \$1,000;
 - (B) Thirty-day prompt suspension of license and privilege to operate a vehicle during the suspension period, or the court may impose, in lieu of the thirty-day prompt suspension of license, a minimum fifteen-day prompt suspension of license with absolute prohibition from operating a vehicle and, for the remainder of the thirty-day period, a restriction on the license that allows the person to drive for limited work-related purposes;
 - (C) Attendance in a course of instruction in driver retraining;
 - (D) A surcharge of \$25 to be deposited into the neurotrauma special fund;
 - (E) An assessment for driver education pursuant to section 286G-3; and
 - (F) Either one of the following:
 - (i) Thirty-six hours of community service work; or
 - (ii) Not less than forty-eight hours and not more than five days of imprisonment;
- (2) For an offense that occurs within five years of a prior conviction for an offense under this section, by:

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

SECTION 2. Section 286G-3, Hawaii Revised Statutes, is amended to read as follows:

“**§286G-3 Driver education assessments.** (a) A driver education assessment of \$7 shall be levied on a finding that a violation of a statute or county ordinance relating to vehicles or their drivers or owners occurred, except for:

- (1) Offenses relating to stopping (when prohibited), standing, or parking;
- (2) Offenses relating to registration; and
- (3) Offenses by pedestrians.

~~(b) [In addition, a driver]~~ Driver education [assessment] assessments of:

- ~~(1) \$100 shall be levied on persons convicted under section 291E-61 or 291E-61.5 to defray costs of services provided by the driver education and training program; [and]~~
- ~~(2) \$50 shall be levied on persons required to attend a child passenger restraint system safety class under section 291-11.5[.]; and~~
- ~~(3) \$75 shall be levied on persons convicted under section 291C- to defray costs of services provided by the driver education and training program.~~

~~[(b)] (c)~~ The driver education assessments levied by [subsection] subsections (a) and (b) shall be paid for each violation in addition to any fine imposed by the court, and regardless of whether a fine is suspended; provided that the driver education assessment of \$100 levied on a person convicted under section 291E-61 or 291E-61.5 may be waived by the court if the court determines that the person is unable to pay the driver education assessment.

~~[(e)] (d)~~ The amount of each driver education assessment levied by ~~[subsection]~~ subsections (a) and (b) shall be transmitted by the clerk of the court for deposit in the driver education and training fund.”

SECTION 3. Section 291C-102, Hawaii Revised Statutes, is amended to read as follows:

“§291C-102 Noncompliance with speed limit prohibited. ~~[(a) No person shall drive a vehicle at a speed greater than a maximum speed limit and no person shall drive a motor vehicle at a speed less than a minimum speed limit established by county ordinance.~~

~~(b) The director of transportation with respect to highways under the director’s jurisdiction may place signs establishing maximum speed limits or minimum speed limits. Such signs shall be official signs and no person shall drive a vehicle at a speed greater than a maximum speed limit and no person shall drive a motor vehicle at a speed less than a minimum speed limit stated on such signs.]~~

(a) A person violates this section if the person drives:

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

(2) A motor vehicle at a speed less than the minimum speed limit, where the maximum or minimum speed limit is established by county ordinance or by official signs placed by the director of transportation on highways under the director’s jurisdiction.

~~[(e)] (b)~~ If the maximum speed limit is exceeded by more than ten miles per hour, a surcharge of \$10 shall be imposed, in addition to any other penalties, and shall be deposited into the neurotrauma special fund.

~~[(d) In addition to the penalties prescribed by section 291C-161 and the surcharge imposed pursuant to subsection (c), the driver’s license and privilege to operate a vehicle of a person who violates this section by operating a vehicle at a speed exceeding ninety miles per hour may be ordered revoked by the court for a period not to exceed five years.]”~~

SECTION 4. Section 291C-104, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

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

SECTION 5. Section 291C-161, Hawaii Revised Statutes, is amended to read as follows:

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

(b) Except as provided in ~~[subsection]~~ subsections (c) and (d), every person who violates any provision of this chapter for which another penalty is not provided shall be fined:

- (1) Not more than \$200 for a first conviction thereof;
 - (2) Not more than \$300 for conviction of a second offense committed within one year after the date of the first offense; and
 - (3) Not more than \$500 for conviction of a third or subsequent offense committed within one year after the date of the first offense[; provided that upon a conviction for a violation of section 291C-12, 291C-12.5, 291C-12.6, or 291C-95, the person shall be sentenced in accordance with that section].
- (c) Every person convicted of violating section 291C-12, 291C-12.5, 291C-12.6, 291C- , or 291C-95 shall be sentenced in accordance with those sections.

- ~~[(e)]~~ (d) Every person who violates section 291C-13 or 291C-18 shall:
- (1) Be fined not more than \$200 or imprisoned not more than ten days for a first conviction thereof;
 - (2) Be fined not more than \$300 or imprisoned not more than twenty days or both for conviction of a second offense committed within one year after the date of the first offense; and
 - (3) Be fined not more than \$500 or imprisoned not more than six months or both for conviction of a third or subsequent offense committed within one year after the date of the first offense.
- ~~[(e)]~~ (e) The court may assess a sum not to exceed \$50 for the cost of issuing a penal summons upon any person who fails to appear at the place within the time specified in the citation issued to the person for any traffic violation.
- ~~[(e)]~~ (f) The court may require a person who violates any of the provisions of this chapter to attend a course of instruction in driver retraining as deemed appropriate by the court, in addition to any other penalties imposed.”

SECTION 6. Section 321H-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established the neurotrauma special fund to be administered by the department with advisory recommendations from the neurotrauma advisory board. The fund shall consist of:

- (1) Moneys raised pursuant to the surcharges levied under sections 291-11.5, 291-11.6, 291C-12, 291C-12.5, 291C-12.6, 291C-102, 291C- , and 291E-61;
- (2) Federal funds granted by Congress or executive order, for the purpose of this chapter; provided that the acceptance and use of federal funds shall not commit state funds for services and shall not place an obligation upon the legislature to continue the purpose for which the federal funds are made available; and
- (3) Funds appropriated by the legislature for the purpose of this chapter.”

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 9. This Act shall take effect on January 1, 2007.

(Approved May 24, 2006.)

Note

1. Edited pursuant to HRS §23G-16.5.