
A BILL FOR AN ACT

RELATING TO FINANCIAL HARDSHIP.

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

1 SECTION 1. Section 286-136, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§286-136 Penalty. (a) Except as provided in subsection
4 (b), any person who violates section 286-102, 286-122, 286-130,
5 286-131, 286-132, 286-133, or 286-134 shall be fined not more
6 than \$1,000 or imprisoned not more than thirty days, or both.
7 Any person who violates any other section in this part shall be
8 fined not more than \$1,000.

9 (b) Any person who is convicted of violating section
10 286-102, 286-122, 286-130, 286-131, 286-132, 286-133, or 286-134
11 shall be subject to a minimum fine of \$500 and a maximum fine of
12 \$1,000, or imprisoned not more than one year, or both, if the
13 person has two or more prior convictions for the same offense in
14 the preceding five-year period.

15 (c) Notwithstanding subsections (a) and (b), a minor under
16 the age of eighteen under the jurisdiction of the family court
17 who is subject to this section shall either lose the right to



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

3 (d) Any person subject to a fine under this section and
4 who fails to timely pay the fine shall be given an opportunity
5 to petition the court to demonstrate that the person's
6 nonpayment or inability to pay is not willful; provided that if
7 the person petitions the court, the court shall make an
8 individualized assessment of the person's ability to pay based
9 upon the totality of the circumstances, including the person's
10 disposable income, financial obligations, and liquid assets;
11 provided further that if the court determines that the person's
12 nonpayment or inability to pay is not wilful, the court may
13 enter an order that allows additional time for payment; reduces
14 the amount of each installment; revokes the fee or fine, or
15 unpaid portion thereof, in whole or in part; or converts any
16 outstanding fine to community service."

17 SECTION 2. Section 291D-9, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "[+]§291D-9[+] **Monetary assessments.** (a) A person found
20 to have committed a traffic infraction shall be assessed a
21 monetary assessment not to exceed the maximum fine specified in



1 the statute defining the traffic infraction. The court shall
2 consider a person's financial circumstances, if disclosed, in
3 determining the monetary assessment.

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

16 (c) In addition to any monetary assessment imposed for a
17 traffic infraction, the court may impose additional assessments
18 for:

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



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

3 (d) [The] Upon request of a person claiming inability to
4 pay a monetary assessment, the court may grant [to a person
5 claiming inability to pay,] an extension of the period in which
6 the monetary assessment shall be paid or may impose community
7 service in lieu thereof.

8 (e) At any point before full payment of a monetary
9 assessment, any person who suffers a change in financial
10 circumstances may request a hearing to modify the monetary
11 assessment or to request community service in lieu thereof."

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

14 "(a) (1) Any person subject to this article in the capacity of
15 the operator, owner, or registrant of a motor vehicle
16 operated in this State, or registered in this State,
17 who violates any applicable provision of this article,
18 shall be subject to citation for the violation by any
19 county police department in a form and manner approved
20 by the traffic violations bureau of the district court
21 of the first circuit;



1 (2) Notwithstanding any provision of the Hawaii Penal
2 Code:
3 (A) Each violation shall be deemed a separate offense
4 and shall be subject to a fine of not less than
5 \$100 nor more than \$5,000 which shall not be
6 suspended except as provided in subparagraph (B);
7 and
8 (B) If the person is convicted of not having had a
9 motor vehicle insurance policy in effect at the
10 time the citation was issued, the fine shall be
11 \$500 for the first offense and a minimum of
12 \$1,500 for each subsequent offense that occurs
13 within a five-year period from any prior offense;
14 provided that the judge:
15 (i) Shall have the discretion to suspend all or
16 any portion of the fine if the defendant
17 provides proof of having a current motor
18 vehicle insurance policy; provided further
19 that upon the defendant's request, the judge
20 may grant community service in lieu of the
21 fine, of not less than seventy-five hours



1 and not more than one hundred hours for the
2 first offense, and not less than two hundred
3 hours nor more than two hundred seventy-five
4 hours for the second offense; and

5 (ii) May grant community service in lieu of the
6 fine for subsequent offenses at the judge's
7 discretion;

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

10 (A) Suspend the driver's license of the driver or of
11 the registered owner for:

12 (i) Three months for the first conviction; and

13 (ii) One year for any subsequent offense within a
14 five-year period from a previous offense;

15 provided that the driver or the registered owner

16 shall not be required to obtain proof of

17 financial responsibility pursuant to section 287-

18 20; or

19 (B) Require the driver or the registered owner to

20 keep a nonrefundable motor vehicle insurance

21 policy in force for six months;



1 (4) Any person subject to a fine under this section and
2 who fails to timely pay the fine shall be given an
3 opportunity to petition the court to demonstrate that
4 the person's nonpayment or inability to pay is not
5 willful; provided that if the person petitions the
6 court, the court shall make an individualized
7 assessment of the person's ability to pay based on the
8 totality of the circumstances, including but not
9 limited to the person's disposable income, financial
10 obligations, and liquid assets; provided further that
11 if the court determines that the person's nonpayment
12 or inability to pay is not wilful, the court may enter
13 an order that allows additional time for payment;
14 reduces the amount of each installment; revokes the
15 fee or fine, or unpaid portion thereof, in whole or in
16 part; or converts any outstanding fine to community
17 service;

18 ~~[(4)]~~ (5) Any person cited under this section shall have an
19 opportunity to present a good faith defense, including
20 ~~[but not limited to]~~ lack of knowledge or proof of



1 insurance [~~—The~~]; provided that the general penalty
2 provision of this section shall not apply to:

3 (A) Any operator of a motor vehicle owned by another
4 person if the operator's own insurance covers
5 such driving;

6 (B) Any operator of a motor vehicle owned by that
7 person's employer during the normal scope of that
8 person's employment; or

9 (C) Any operator of a borrowed motor vehicle if the
10 operator holds a reasonable belief that the
11 subject vehicle is insured;

12 [~~+5~~] (6) In the case of multiple convictions for driving
13 without a valid motor vehicle insurance policy within
14 a five-year period from any prior offense, the court,
15 in addition to any other penalty, shall impose the
16 following penalties:

17 (A) Imprisonment of not more than thirty days;

18 (B) Suspension or revocation of the motor vehicle
19 registration plates of the vehicle involved;

20 (C) Impoundment, or impoundment and sale, of the
21 motor vehicle for the costs of storage and other



1 charges incident to seizure of the vehicle, or
2 any other cost involved pursuant to section
3 431:10C-301; or

4 (D) Any combination of those penalties; and
5 [~~6~~] (7) Any violation as provided in subsection (a) (2) (B)
6 shall not be deemed to be a traffic infraction as
7 defined by chapter 291D."

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

10 "(3) The term of imprisonment for nonpayment of fee, fine,
11 or restitution shall be specified in the order of commitment,
12 and shall not exceed one day for each [~~\$25~~] \$250 of the fee or
13 fine, thirty days if the fee or fine was imposed upon conviction
14 of a violation or a petty misdemeanor, or one year in any other
15 case, whichever is the shorter period. A person committed for
16 nonpayment of a fee or fine shall be given credit toward payment
17 of the fee or fine for each day of imprisonment, at the rate of
18 [~~\$25~~] \$250 per day."

19 SECTION 5. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



1 SECTION 6. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect on July 1, 2050.



Report Title:

Financial Hardship; Traffic Offenses; Contumacious Nonpayment

Description:

Provides courts with greater discretion to adjust the amount owed or installments to be paid by a person who violates certain traffic offenses based on the person's inability to pay.

Decreases the imprisonment term to contumacious nonpayment ratio. Increases the amount of credit given to a person committed for contumacious nonpayment. Effective 7/1/2050.

(SD1)

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

