

KAUAI COUNTY DEPARTMENT OF FINANCE  
RULES OF THE EXAMINER OF DRIVERS UNDER  
THE HIGHWAY SAFETY ACT, CHAPTER 286,  
HAWAII REVISED STATUTES

Section 1. Definitions. Whenever used in these rules:

- (1) "County Clerk" shall mean the County Clerk of the County of Kauai.
- (2) "Emergency rules" shall mean those rules adopted pursuant to Chapter 91, Hawaii Revised Statutes.
- (3) "Examiner of Drivers" shall mean the Examiner of Drivers of the County of Kauai.
- (4) "Highway Safety Act" shall mean Chapter 286, Hawaii Revised Statutes.
- (5) "Party" shall mean such person named or admitted as a party in the hearing under these rules.
- (6) "Person" includes individuals, partnerships, corporations, associations, or public or private organizations of any character.
- (7) "Rule" shall mean any statement of the Examiner of Drivers constituting a rule under Chapter 91, Hawaii Revised Statutes.
- (8) "State Highway Safety Coordinator" shall mean that State Highway Safety Coordinator described in Section 286-3, Hawaii Revised Statutes.

Section 2. Public Information and Inspection.

- 2.1 Information. The public may obtain information on matters within the jurisdiction of the Examiner of Drivers relating to the Highway Safety Act by inquiring in person, during regular business hours at the Office of the Examiner of Drivers, Kauai County Department of Finance, Lihue, Hawaii, or by submitting a written request to said office.
- 2.2 Inspection of Rules. All rules of the Examiner of Drivers are available for public inspection during the regular business hours at:
  - (1) Office of the Examiner of Drivers  
Kauai County Department of Finance  
Lihue, Hawaii

(2) Office of the County Clerk  
County of Kauai  
Lihue, Hawaii

(3) Office of the Lieutenant Governor  
State of Hawaii  
Honolulu, Hawaii

2.3 Inspection of Opinions and Orders. All final opinions and orders of the Examiner of Drivers rendered in the performance of its function are available for public inspection at the Office of the Examiner of Drivers during regular business hours.

2.4 Copies of Rules. Copies of compilations of rules and supplements thereto are available to the public at a price to be fixed by the Office of the County Clerk, to cover publication and mailing costs.

### Section 3. Adoption, Amendment or Repeal of Rules.

#### 3.1 Initiation by Petition.

- a. Any interested person may petition the Examiner of Drivers for the adoption, amendment or repeal of any rule of the Examiner of Drivers.
- b. The petition need not be in any special form but it shall contain the following:
  - 1) The name, address and telephone number of each petitioner.
  - 2) A statement of the nature of the petitioner's interest.
  - 3) A draft or the substance of the proposed rule or amendment or a designation of the provisions sought to be repealed.
  - 4) A statement of the reasons in support of the proposed rule, amendment or repeal.
  - 5) Any other information pertinent to the petition.
  - 6) The signature of each petitioner.
- c. The petition shall be submitted in triplicate to the Office of the Examiner of Drivers.
- d. The Examiner of Drivers shall within thirty days after the submission of the petition either deny the petition in writing, stating its reasons for such denial, or initiate proceedings in accordance with the procedures provided herein, for the adoption, amendment or repeal of rules, as the case may be.

e. Any petition which does not conform to the requirements specified herein may be rejected.

3.2 Initiation by the Examiner of Drivers. The Examiner of Drivers may, at any time on its own initiative, initiate proceedings in accordance with the procedures provided herein, for the adoption, amendment or repeal of rules.

3.3 Public Hearing.

a. Prior to the adoption, amendment or repeal of any rules, emergency rules notwithstanding, a public hearing shall be held by the Examiner of Drivers. At least 20 days notice shall be given, prior to the date of such hearing. Such notice shall include a statement of the substance of the proposed rule, and of the date, time and place where interested persons may be heard thereon. The notice shall be mailed to all persons who have made a timely written request of the Examiner of Drivers for advance notice of its rulemaking proceedings, and shall be published at least once in a newspaper of general circulation.

b. All interested persons shall be afforded an opportunity to submit data, views or arguments, orally or in writing. The Examiner of Drivers shall fully consider all written and oral submissions respecting the proposed rule. The Examiner of Drivers may make its decision at the public hearing or announce then the date as to when it intends to make its decision. Upon adoption, amendment or repeal of a rule, the Examiner of Drivers shall, if requested to do so by an interested person, issue a concise statement of the principal reasons for and against its determination.

3.4 Filing. Certified copies of the rules adopted, amended or repealed by the Examiner of Drivers shall be filed forthwith with the County Clerk, and as may be otherwise required by law for the filing of rules.

3.5 Effective Date. The adoption, amendment or repeal of any rule by the Examiner of Drivers shall become effective ten days after filing of the rule with the County Clerk, notwithstanding emergency rules which become effective upon filing with the County Clerk; provided that, if a later effective date is required by statute or specified in the rule, such later date shall be the effective date. However, no rule shall specify an effective date in excess of thirty days after the filing of the rule as provided herein.

Section 4. Declaratory Rulings by the Examiner of Drivers.

4.1 Petition. Any interested person may petition the Examiner of Drivers for a declaratory order as to the applicability of any provision of the Highway Safety Act or any rule or order of the Examiner of Drivers.

4.2 Submission of Petition.

a. The petition shall be submitted in duplicate to the Examiner of Drivers, c/o Kauai County Department of Finance, County of Kauai. It shall contain:

- 1) The name, address and telephone number of the petitioner.
- 2) A statement of the nature of petitioner's interest, including reasons for the submission of the petition.
- 3) A designation of the specific provision, rule or order in question.
- 4) A complete statement of the relevant facts.
- 5) A statement of the position or contention of the petitioner.
- 6) A memorandum of authorities, containing a full discussion of the reasons, including legal authorities, in support of such position or contention.
- 7) The signature of each petitioner.

b. Any petition which does not conform to the foregoing requirements may be rejected.

4.3 Refusal to Issue Declaratory Order. The Examiner of Drivers may for good cause refuse to issue a declaratory order. Without limiting the generality of the foregoing, the Examiner of Drivers may so refuse where:

a. The question is speculative or purely hypothetical and does not involve existing facts, or facts which can reasonably be expected to exist in the near future.

- b. The petitioner's interest is not of the type which would give him standing to maintain an action if he were to seek judicial relief.
- c. The issuance of the declaratory order may adversely affect the interests of the County or any of its officers or employees in a litigation which is pending or may reasonably be expected to arise.
- d. The matter is not within the jurisdiction of the Examiner of Drivers.

4.4 Referral to Other Agencies. Where any question of law is involved, the Examiner of Drivers may refer the matter to the County Attorney. The Examiner of Drivers may also obtain the assistance of other agencies, where necessary or desirable.

4.5 Disposition of Petition. The Examiner of Drivers shall consider each petition submitted, and within a reasonable time after the submission thereof, either deny the petition in writing, stating its reason for such denial, or issue a declaratory order on the matters contained in the petition.

4.6 Applicability of Order. An order disposing of a petition shall be applicable only to the fact situation alleged in the petition or set forth in the order. It shall not be applicable to different fact situations or where additional facts not considered in the order exist. Such order shall have the same force and effect as other orders issued by the Examiner of Drivers.

#### Section 5. Restrictions on Driver Licenses.

5.1 Authority. In the interest of the safety and welfare of the traveling public and pursuant to the authority vested in the Examiner of Drivers by the Highway Safety Act, driver licenses may be restricted in the manner set forth herein.

5.2 Examinations. Examinations shall be conducted as required by the State Highway Safety Coordinator.

5.3 Restrictions.

- a. Subsequent to completion of the examinations required by the State Highway Safety Coordinator, the examiner shall explain to the applicant the reasons for any restrictions.
- b. The following indicate some of the restrictions which may be required for various deficiencies:
  - 1) Pedal extension; special manual brakes; power brakes; special clutch or accelerator controls.

- 2) Special seat adjustments; cushions placed appropriately.
  - 3) Special knob on steering wheel; mechanical arm signalling device; gear lever on steering column; automatic transmission.
  - 4) Two outside mirrors - one on the right and one on the left and a full-size inside mirror.
- c. Any restrictions and the reasons therefor shall be entered on the application for the State of Hawaii Motor Vehicle Driver License and the restrictions shall be noted on the respective license according to the following code:
- A - Glasses
  - B - Outside Mirror
  - C - Automatic Transmission
  - D - Daylight Hours Only
  - E - Full Hand Equipment
  - F - Mechanical Signals
  - G - Do Not Use
  - H - Do Not Use
  - I - Hearing Aid
  - J - Power Brakes
  - K - Power Steering
  - L - Steering Knob
  - M - Cushion
  - N - Annual Eye or Physical Examination
  - O - Any other restrictions determined necessary by Examiner of Drivers

**Section 6. Rule of Practice - Hearings Subsequent to Revocation of Driver License Under Section 286-119, HRS.**

- 6.1 Right of Licensee to a Hearing. When the Examiner of Drivers suspends a license under Section 286-119, HRS, the Examiner of Drivers shall immediately notify the licensee and afford him a hearing.
- 6.2 Notice to the Licensee. The Examiner of Drivers shall place the matter on his agenda, and in conformity with the provisions of Chapter 91, HRS, as amended, notify the licensee of his opportunity to be heard. Such notice shall be sent immediately after suspension of a license under Section 286-119, HRS.
- 6.3 Hearing. At such hearing, the Examiner of Drivers shall afford the licensee an opportunity to be heard. Such hearing shall be conducted in conformity with the applicable provisions of said Chapter 91, HRS.
- 6.4 Consultation by Examiner of Drivers Prohibited. The Examiner of Drivers shall not consult any person on any issue of fact, except upon notice and opportunity for all parties to participate.

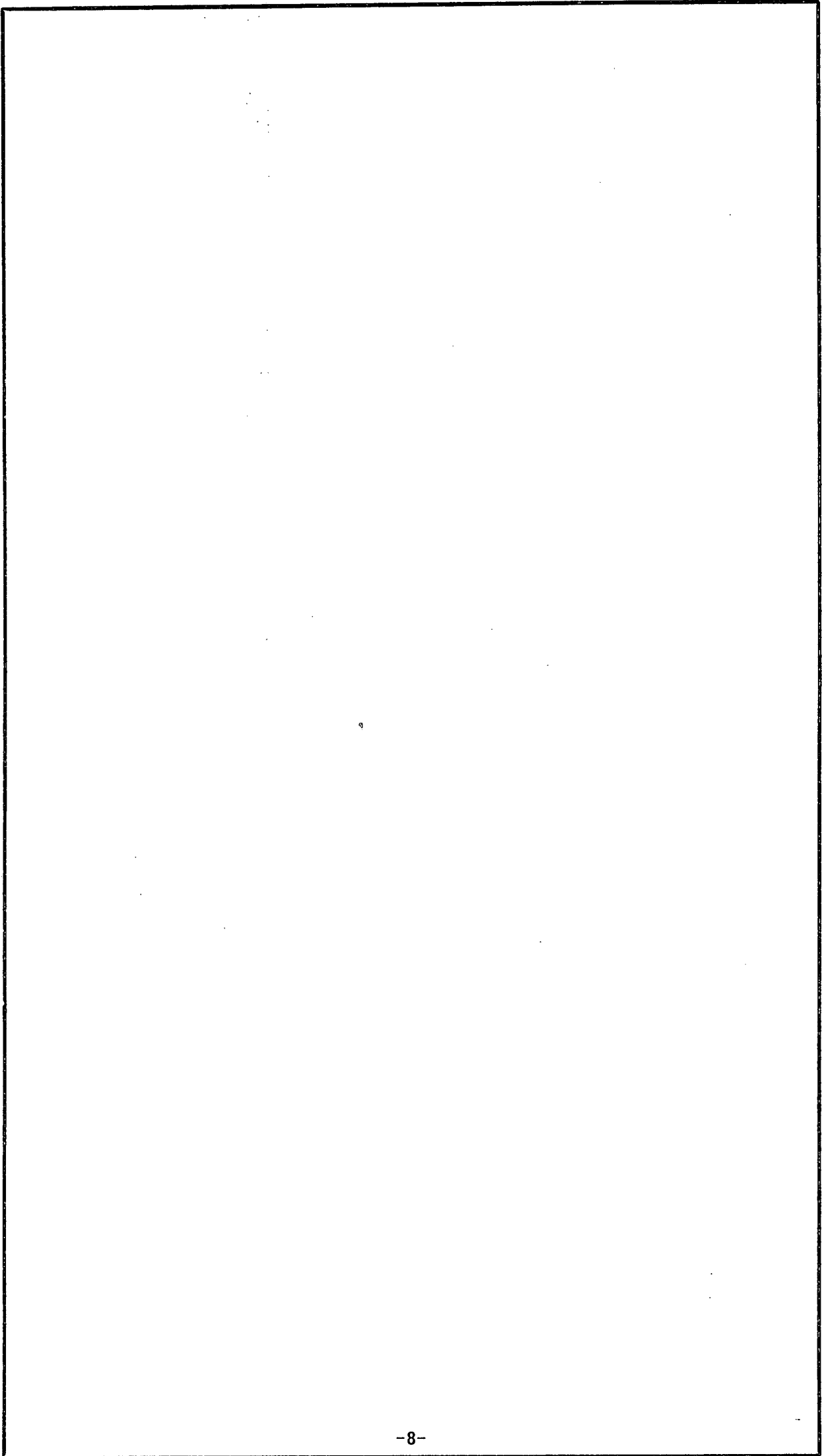
6.5 Decision and Order. The Examiner of Drivers may rescind the suspension, suspend the license for a further period, or revoke the license. Each decision and order adverse to the licensee shall be in writing or stated in the record and shall be accompanied by separate findings of fact and conclusions of law. If any party to the proceeding has filed proposed findings of fact, the Examiner of Drivers shall incorporate in its decision a ruling upon each proposed findings presented. Parties to the proceeding shall be notified by delivery or mailing of a certified copy of the decision and order and accompanying findings and conclusions within a reasonable time to each party or to his attorney of record.

6.6 Rehearing.

- a. The Examiner of Drivers may rehear any decision adverse to the licensee.
- b. The licensee may apply in writing for a rehearing setting forth:
  - 1) His name, mailing address and telephone number;
  - 2) The particular sections of the statutes and rules involved;
  - 3) All pertinent facts;
  - 4) The action of the Examiner of Drivers; and
  - 5) The reasons for the rehearing.
- c. The Examiner of Drivers may either grant or deny said rehearing.

Section 7. Judicial Review. Judicial review of the decision and order of ruling rendered in the hearing shall be as provided by law.

Section 8. Severability. If any portion of the foregoing rules or the applicability thereof to any person, property or circumstance is held invalid for any reason, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, these rules are declared to be severable.



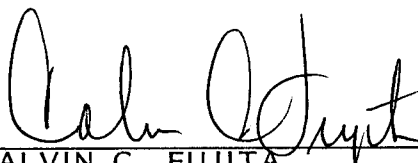


CERTIFICATION

I, Calvin C. Fujita, Chief of Police, Kauai Police Department, County of Kauai, do hereby certify:

1. That the foregoing is a full, true and correct copy of the Rules of the Kauai Police Department on matters relating to the Rules of the Examiner of Drivers under the Highway Safety Act, Chapter 286, Hawaii Revised Statutes; Rules of the Administration of the Motor Vehicle Safety Responsibility Act, Chapter 287, Hawaii Revised Statutes; and Rules and Regulations Relating to Taxicabs; which were amended and adopted by the Chief of Police and transferred in its entirety to the Director of Finance and the Department of Finance, County of Kauai, on July 17, 1985.

2. That notice of public hearing on the foregoing Rules, which notice included a statement of the substance of the proposed Rules, was published in the Garden Island Newspaper on June 18, 1985.



CALVIN C. FUJITA  
Chief of Police

APPROVED AS TO FORM:



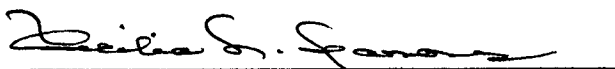
MICHAEL BELLES  
County Attorney, County of Kauai

APPROVED ON THIS 9 DAY OF September 1985.



LINDA KAIKAPU, Chairperson  
Kauai Police Commission

APPROVED ON THIS 10<sup>th</sup> DAY OF September 1985



CECILIA N. RAMONES  
Director of Finance, County of Kauai

APPROVED ON THIS 9<sup>th</sup> DAY OF September



TONY F. KUNIMURA  
Mayor, County of Kauai

RECEIVED AND FILED THIS 10<sup>th</sup> DAY OF September 1985.

Jerome Y.K. Hew  
JEROME Y.K. HEW  
County Clerk, County of Kauai

Certification of County Clerk

I hereby certify that on September 10, 1985, I have accepted for filing from the Kauai Police Commission the Rules of the Examiner of Drivers; Rules of the Administration of the Motor Vehicle Safety Responsibility Act; and the Rules and Regulations Relating to Taxicabs adopted and transferred to the Director of Finance and the Department of Finance, County of Kauai, by that body, on July 17, 1985.

*and*