

DEPARTMENT OF TRANSPORTATION

Amendment and Compilation of Chapter 19-121
Hawaii Administrative Rules
October 8, 1993

SUMMARY

1. §§19-121-3 and 19-121-4 are amended.
2. §19-121-6 is amended.
3. §19-121-8 and 19-121-9 are amended.
4. Chapter 121 is compiled.

HAWAII ADMINISTRATIVE RULES

TITLE 19
DEPARTMENT OF TRANSPORTATIONSUBTITLE 5
MOTOR VEHICLE SAFETY OFFICECHAPTER 121
TRAFFIC RECORDS

§19-121-1	Purpose and scope
§19-121-2	Responsibility of agencies to maintain and compile records
§19-121-3	County records
§19-121-4	State records
§19-121-5	Establishment of statewide traffic records system
§19-121-6	Release of information identifying individuals
§19-121-7	Release of information not identifying individuals
§19-121-8	Corporate or other surety bond requirements
§19-121-9	Fees and fee exemptions for traffic records release
§19-121-100	Severability
§19-121-101	Repeal

Historical note. This chapter is based substantially on the rules and regulations governing the development and maintenance of traffic records. [Eff 2/13/69; R 8/26/82]

§19-121-1 Purpose and scope. Because of the ever increasing number of traffic accidents occurring on the public highways each year, it is deemed in the public interest that a statewide, interrelated traffic records system shall be established. The system shall be designed to assure that appropriate data on traffic accidents, drivers, motor vehicles, and roadways are available to provide:

- (1) A reliable indication of the magnitude and nature of the highway traffic accident problem;

- (2) A reliable means for identifying short-term changes and long-term trends in the magnitude and nature of traffic accidents; and
- (3) A valid basis for:
 - (A) The detection of high or potentially high accident locations and causes;
 - (B) The detection of health, behavioral, and related factors contributing to accident causes;
 - (C) The design of accident, fatality, and injury countermeasures;
 - (D) The development of means for evaluating the cost effectiveness of these measures; and
 - (E) The planning and implementation of selected enforcement and other operational programs. [Eff 8/26/82; am and comp 6/26/86; comp JAN 03 1994] (Auth: HRS §286-171) (Imp: HRS §286-171)

§19-121-2 Responsibility of agencies to maintain and compile records. State and county agencies shall develop, maintain, and compile traffic records in accordance with these rules in a form approved by the director of transportation. [Eff 8/26/82; comp 6/26/86; comp JAN 03 1994] (Auth: HRS §286-171) (Imp: HRS §286-171)

§19-121-3 County records. (a) County records shall be developed and maintained as provided in this section.

(b) The county agency designated by the executive officer of each county as responsible for the registration of vehicles in the county shall record information concerning the vehicles including:

- (1) Make of vehicle;
 - (2) Model year;
 - (3) Type of body;
 - (4) Color;
 - (5) Vehicle identification number (rather than motor number);
 - (6) License plate number;
 - (7) Name of current owner; and
 - (8) Current address of owner.
- (c) The examiner of drivers in each county shall

record information about licensed drivers, including:

- (1) The identification of each licensee;
- (2) The current address of each licensee;
- (3) The physical characteristics of each licensee; and
- (4) Any restrictions placed on the driving of each licensee.

(d) The chief of police of each county shall use a statewide standardized traffic accident report form approved by the director of transportation to record information concerning accidents, including:

- (1) Identification of location in space and time;
- (2) Identification of drivers and vehicles involved;
- (3) Type of accident;
- (4) Description of injury and property damage;
- (5) Description of environmental conditions;
- (6) Causes and contributing factors, including the absence of or failure to use available safety equipment;
- (7) Results of tests for blood alcohol; and
- (8) Financial responsibility information.

(e) The county department designated by the county legislative body as responsible for the periodic inspection of vehicles shall record information concerning the periodic inspection of vehicles, including:

- (1) Date of inspection;
- (2) Make of vehicle;
- (3) Model year;
- (4) Class of vehicle;
- (5) Color;
- (6) Mileage or odometer reading;
- (7) Vehicle identification number;
- (8) License plate number;
- (9) Defects by component or category;
- (10) Identification of inspector and inspection station; and
- (11) No-fault insurance effective date, termination date, name of issuing insurance carrier, and policy number of identification card.

[Eff 8/26/82; am and comp 6/26/86; am and comp JAN 03 1994] (Auth: HRS §§286-8, 286-162, 286-171) (Imp: HRS §§286-8, 286-162, 286-171)

§19-121-4 State records. State records shall be developed and maintained as follows:

- (1) The department of education shall record information concerning driver education, including the identification of students and whether they successfully completed courses;
- (2) The district and circuit courts shall record any information concerning violations of traffic ordinances and statutes;
- (3) The department of transportation shall record information concerning the identification of accident locations; and
- (4) The department of health shall record information concerning the declaration of persons as blind and the commitment of persons as mentally ill or retarded. [Eff 8/26/82; comp 6/26/86; am and comp JAN 03 1994] (Auth: HRS §286-171) (Imp: HRS §286-171)

§19-121-5 Establishment of statewide traffic records system. At the request of the director of transportation, the county and state agencies shall provide the director, or a designated representative, all records which are required to be kept pursuant to section 19-121-3 or 19-121-4 and which the director deems necessary for the purpose of establishing the statewide interrelated traffic records system. [Eff 8/26/82; am and comp 6/26/86; am and comp JAN 03 1994] (Auth: HRS §§286-162, 286-171) (Imp: HRS §§286-162, 286-171)

§19-121-6 Release of information identifying individuals. (a) Subject to authorization granted by the chief justice of the supreme court of the State with respect to the traffic records of the violations bureau of the district and circuit courts, which are within the chief justice's control, information concerning any individual or in which any individual is identified may be furnished by the director of transportation if the requestor is:

- (1) Acting on behalf of a state, a political subdivision of a state, a federal department, or agency;
- (2) Required by law to give written notice by mail to owners of vehicles; or

- (3) Deemed to have a legitimate request because the requestor:
- (A) Is using the information for non-commercial research in traffic safety programs or statistical reports;
 - (B) Is a manufacturer performing, or an agent acting on behalf of or an agent assisting the manufacturer of new motor vehicles to perform, a voluntary or ordered motor vehicle defect or safety defect recall pursuant to a specific request; or
 - (C) Is determined otherwise to have a legitimate request by the director, pursuant to the standards of subsection (c).

Notwithstanding paragraphs (1) to (3), the director may refuse a request if the director determines that the applicant has previously given false information regarding the intended use of the requested information. A request may be canceled if the director determines that reasonable evidence exists that the request constitutes an unwarranted invasion of privacy pursuant to article I, section 6 of the Hawaii state constitution or that the requestor has used or intends to use the information for a purpose which violates any restrictive provision of this chapter or has compromised the public health, safety, or welfare of the data subject.

(b) Any request for statewide traffic records under subsection (a) shall:

- (1) Be made in writing and addressed to the director of transportation;
- (2) State the reason for obtaining the records;
- (3) Describe the records requested by giving information which will clearly identify the requested record such as:
 - (A) The name, date of birth, and social security number for drivers;
 - (B) The name of the vehicle manufacturer;
 - (C) The type of vehicle;
 - (D) Type of vehicle recall;
 - (E) Year, make, and model of the vehicle for vehicle recall; or
 - (F) Any other identifying information; and
- (4) Shall attach proof of the validity of the request and the authority of the requestor.
- (c) The following are standards to be used by the

director for the determination of a legitimate request pursuant to subsection (a)(3)(C). The director shall approve the request for the release of records when the director has determined with reasonable certainty that the release:

- (1) Is not in violation of any law or this chapter;
 - (2) Is required by a specific compelling state interest;
 - (3) Is necessary for the public health, safety, or welfare;
 - (4) Conforms to this chapter; and
 - (5) Would enhance the enforcement of county, state, or federal laws.
- (d) If the director determines that the requestor of information qualifies under subsection (a)(3) to receive the information, the requestor, in addition to complying with subsections (b) and (c), as applicable, shall:

- (1) File an affidavit with the director stating the purpose for obtaining the information and making assurances that:
 - (A) The information will be used only for the stated purpose;
 - (B) Individual identities will be protected;
 - (C) The information will not be used to compile a list of individuals for the purposes of any commercial solicitation by mail, phone, or otherwise, or for the collection of delinquent accounts; and
 - (D) The requestor will assume full responsibility and will hold the State harmless in any civil suit arising from any subsequent misuse of the information;
- (2) Where the requestor is acting on behalf of a principal, file with the director a copy of the principal's authorization for each request;
- (3) File with the director a corporate or other surety bond in favor of the State in the penal sum as specified in section 19-121-8 conditioned upon the full and faithful compliance by the person or persons receiving the information with the terms and conditions of the affidavit; and

(4) Pay the fee specified in section 19-121-9.

(e) This section notwithstanding, the results of any test for alcohol content made upon any person pursuant to section 286-162, HRS, shall be available only to the state and county highway safety councils and to other agencies the director deems necessary and advisable.

(f) The director may release all the information contained in the motor vehicle registration file only when all of the following conditions are met:

(1) The director has determined that the State has a compelling interest in the public's safety or health which justifies the release, such as the State's inability to meet the time parameters set forth in subsection (i); and

(2) The director has determined that the requestor is qualified pursuant to subsection (a)(3)(B) and has a legitimate reason for obtaining the records.

(g) Any release of information contained in the statewide traffic records system shall be restricted to information the director deems necessary to conduct the activity in which the State has a compelling interest.

(h) Nothing in this chapter shall prohibit a person or authorized agent from obtaining information pertaining to that person's own record as contained in the statewide traffic records system. County agencies may release individual records described under section 19-121-3 which are within their control to individual requestors or their legal representatives.

(i) If the request is made pursuant to subsection (a)(3)(B), the agency shall comply with requests for access to motor vehicle registration records within twenty working days from date of receipt of the request provided that delay or failure of requestor to meet any requirement of this section shall toll the agency's compliance period accordingly. Where it is determined that a request for multiple records would unduly burden and interfere with operations of the agency, for example because the records requested are presently in use, voluminous, or difficult to locate, the director may:

- (1) Extend the period of compliance for an additional period as mutually agreed; or
- (2) If the request is made by a person qualifying under subsections (a)(3)(B) and (f)(1) and (2), instead of providing only the

information requested, provide information on all models of the vehicle make that is being recalled, or provide all the information in the entire motor vehicle registration file whichever the director deems most appropriate under the existing circumstances. The director shall effect such a release as expeditiously as possible.

(j) County agencies may release ownership information from vehicle records under their control to towing companies for motor vehicles which have been towed in accordance with section 290-11, HRS. [Eff 8/26/82; am and comp 6/26/86; am and comp JAN 03 1994] (Auth: HRS §§286-162, 286-171, 286-172) (Imp: HRS §§286-162, 286-171, 286-172)

§19-121-7 Release of information not identifying individuals. This chapter notwithstanding, information from the statewide traffic records system that does not identify individuals by name, address, or other means of enabling personal contact may be furnished to any person who pays the fees in section 19-121-9. [Eff and comp 6/26/86; comp JAN 03 1994] (Auth: HRS §§286-171, 286-172) (Imp: HRS §§286-171, 286-172)

§19-121-8 Corporate or other surety bond requirements. Corporate or other surety bonds naming the State and the director as obligees in the appropriate amounts specified below shall be provided to the State prior to the release of traffic records under section 19-121-6(a)(3). Where the number of individual records provided is:

- (1) Not more than 3,333, the bond amount shall be \$1,000; or
- (2) Greater than 3,333, the dollar amount of the bond shall be equal to thirty per cent of the number of records provided, up to a maximum bond amount of \$70,000.

Corporate surety bonds shall remain in effect for not less than a period of two years from the date of the release of the information, and they must be obtained from a surety company that is licensed to do business in the State of Hawaii. [Eff and comp 6/26/86; am and comp JAN 03 1994] (Auth: HRS §§286-171, 286-172) (Imp: HRS §§286-171, 286-172)

§19-121-9 Fees and fee exemptions for traffic records release. (a) The director shall charge a flat \$100 administrative fee to requestors under sections 19-121-6(a)(3) and 19-121-7 for the release of statewide traffic records plus the actual cost for providing the information including but not limited to:

- (1) Supplies and equipment, actual cost;
- (2) Actual cost for first class postage;
- (3) Prorated computer use charges as follows:
 - (A) Central processing unit - \$638.49 per hour;
 - (B) Disk - \$1.30 per hour;
 - (C) Tape - \$74.45 per hour;
 - (D) Lines printed - 75 cents per thousand;
- (4) Labor charges as follows:
 - (A) Keypunch - \$41.16 per hour;
 - (B) Programmer - \$42.23 per hour.

(b) Prior to the release of records, repeat requestors and requestors of information not identifying individuals, who the director had determined qualified, shall be required to pay the fees and costs under subsection (a) plus any miscellaneous costs mutually agreed upon unless the director enters into a written agreement for scheduled payments. When a written agreement exists, records may be released prior to payment. Magnetic computer tapes and spools shall be provided by the requestor and shall be compatible with the state equipment.

(c) Government agencies and others identified under section 19-121-6(a)(1) and (2) are exempt from fees, affidavit, and bond requirements.

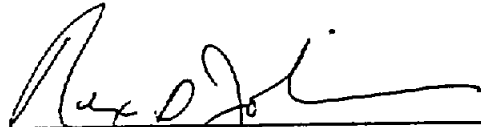
(d) County agencies authorized to release individual records under section 19-121-6(h) or (j) may charge a fee as determined by their respective county council for their release. [Eff and comp 6/26/86; am and comp **JAN 03 1994**] (Auth: HRS §§286-171, 286-172) (Imp: HRS §§286-171, 286-172)

§19-121-100 Severability. If any provision of this chapter is held invalid, the invalidity shall not affect the remaining provisions of this chapter. [Eff 8/26/82; comp and ren §19-121-100 6/26/86; comp **JAN 03 1994**] (Auth: HRS §§286-171, 286-172) (Imp: HRS §§286-171, 286-172)

\$19-121-101 Repeal. All rules relating to and governing the development and maintenance of traffic records in effect prior to August 26, 1982 are repealed. [Eff 8/26/82; am, comp, and ren \$19-121-101 6/26/86; comp JAN 03 1994] (Auth: HRS §§286-171, 286-172) (Imp: HRS §§286-171, 286-172)

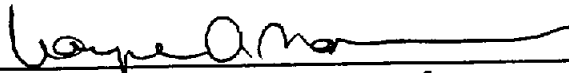
Amendments to and compilation of chapter 121, title 19, Hawaii Administrative Rules, on the Summary Page dated October 8, 1993 were adopted on October 8, 1993 following public hearings held on September 15, 17, 20, 21, and 23, 1993 after public notice was given in the Honolulu Advertiser on August 8, and in the Maui News, The Garden Island News and the Hawaii Tribune-Herald on August 6, and the Molokai News on August 11, 1993.

These amendments to and compilation of chapter 19-121, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.



REX D. JOHNSON
Director
Department of Transportation

APPROVED AS TO FORM:



Deputy Attorney General



JOHN WAIHEE
Governor
State of Hawaii

Dated: DEC 22 1993

DEC 22 1993

Filed

DEC 22 2 25 PM '93

LIEUTENANT GOVERNOR'S
OFFICE