**§ 226. Summons; answer.** 1. Summons. The commissioner shall be authorized to prescribe by regulation the form for the summons and complaint to be used for all traffic violations specified in subdivision one of section two hundred twenty-five of this chapter, and to establish procedures for proper administrative controls over the disposition thereof. Such summons may be the same as the uniform summons provided for in section two hundred seven of this chapter. The chief executive officer of each local police force which is required to use the summons and complaint provided for herein shall prepare or cause to be prepared such records and reports as may be prescribed by the commissioner.

1-a. Return date notifications. The commissioner shall notify any person who receives a summons and complaint for any traffic violation specified in subdivision one of section two hundred twenty-five of this article of the time and place of the return date for such summons, no later than one week prior to such return date. The commissioner shall send such notification by first class mail at the address of such person on file with the department or at the current address provided by the United States postal service in accordance with section two hundred fourteen of this title.

2. Answer. (a) General. Any person who receives a summons for a violation described in subdivision one of section two hundred twenty-five of this chapter shall answer such summons by personally appearing on the return date at the time and place specified therein. Provided, however, that an answer may be made as provided in paragraphs (b) and (c) of this subdivision and the regulations of the commissioner.

(b) Answer by mail -- admitting charge. If a person charged with the violation admits to the violation as charged in the summons, he may complete an appropriate form prescribed by the commissioner and forward such form and summons, together with the appropriate part of his license, if required by the commissioner's regulations, to the office of the department specified on such summons. If a schedule of penalties for violations has been established, and such schedule appears on the answer form, a check or money order in the amount of the penalty for the violation charged if included in such schedule, must also be submitted with such answer. Unless permitted by the regulations of the

commissioner, such plea may not be made by mail for any offense for which suspension or revocation of a driver's license is required by law, or for any other offense if the conviction thereof would result in a hearing pursuant to a highway safety program established under the provisions of subdivision three of section five hundred ten of this chapter.

(c) Answer by mail - denial of charges. If the person charged with the violation denies part or all of the violation as charged in the summons, he may complete an appropriate form prescribed by the commissioner for that purpose and forward such form and summons to the office of the department specified on such summons. Upon receipt, such answer shall be entered and a hearing date established by the department. The department shall notify such person by return mail of the date of such hearing.

3. Failure to answer or appear; entry of order. (a) If the person charged with the violation shall fail to answer the summons as provided herein, the commissioner may suspend such person's license or driving privilege or, if the charge involves a violation of section three hundred eighty-five, section four hundred one or section five hundred eleven-a of this chapter by a registrant who was not the operator of the vehicle, the registration of such vehicle or the privilege of operation of any motor vehicle owned by such registrant may be suspended, until such person shall answer as provided in subdivision two of this section, or has paid or has entered into an installment payment plan to pay the fine associated with a conviction entered as a result of the failure to appear in response to such summons, or the defendant has been acquitted of the charge that led to the suspension or such charge was otherwise dismissed. If a person shall fail to appear at a hearing, when such is provided for pursuant to this section, such person's license, or registration or privilege of operating or of operation, as appropriate, may be suspended pending appearance at a subsequent hearing, or the disposition of the charges involved. Any suspension permitted by this subdivision, if already in effect, may be terminated or if not yet in effect, may be withdrawn or withheld, prior to the disposition of the charges involved if such person shall appear and post security in the amount of forty dollars to guarantee his or her appearance at any required hearing. The security posted pursuant to this subdivision shall

be returned upon appearance at the scheduled hearing or an adjourned hearing which results in a final disposition of the charge, and otherwise shall be forfeited. If a suspension has been imposed pursuant to this subdivision and the case is subsequently transferred pursuant to subdivision two of section two hundred twenty-five of this article, such suspension shall remain in effect until the person answers the charges in the court to which the case was transferred. Any suspension issued pursuant to this paragraph shall be subject to the provisions of paragraph (j-1) of subdivision two of section five hundred three of this chapter.

(b) Failure to answer or appear in accordance with the requirements of this section and any regulations promulgated hereunder shall be deemed an admission to the violation as charged, and an appropriate order may be entered in the department's records, and a fine consistent with the provisions of this chapter and regulations of the commissioner may be imposed by the commissioner or person designated by the commissioner. Prior to entry of an order and imposition of a fine, the commissioner shall notify such person by mail at the address of such person on file with the department or at the current address provided by the United States postal service in accordance with section two hundred fourteen of this title: (i) of the violation charged; (ii) of the impending entry of such order and fine; (iii) that such order and fine may be filed as a judgment with the county clerk of the county in which the operator or registrant is located; and (iv) that entry of such order and imposition of such fine may be avoided by entering a plea or making an appearance within thirty days of the sending of such notice. In no case shall such an order and fine be entered and imposed more than two years after the date of the alleged violation. Upon application in such manner and form as the commissioner shall prescribe an order and fine shall be vacated upon the ground of excusable default.