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# A BILL FOR AN ACT

RELATING TO OPERATING A VEHICLE UNDER THE INFLUENCE OF AN  
INTOXICANT.

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

1 SECTION 1. Section 291E-1, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

4 "Highly intoxicated driver" means a person whose  
5 measurable amount of alcohol is:

6 (1) .15 or more grams of alcohol per one hundred  
7 milliliters or cubic centimeters of the person's  
8 blood; or

9 (2) .15 or more grams of alcohol per two hundred ten  
10 liters of the person's breath."

11 SECTION 2. Section 291E-3, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 **"§291E-3 Evidence of intoxication.** (a) In any criminal  
14 prosecution for a violation of section 291E-61 or 291E-61.5 or  
15 in any proceeding under part III:



1           (1) .08 or more grams of alcohol per one hundred  
2           milliliters or cubic centimeters of the person's  
3           blood;

4           (2) .08 or more grams of alcohol per two hundred ten  
5           liters of the person's breath; or

6           (3) The presence of one or more drugs in an amount  
7           sufficient to impair the person's ability to operate a  
8           vehicle in a careful and prudent manner,  
9           within three hours after the time of the alleged violation as  
10          shown by chemical analysis or other approved analytical  
11          techniques of the person's blood, breath, or urine shall be  
12          competent evidence that the person was under the influence of an  
13          intoxicant at the time of the alleged violation.

14          (b) In any criminal prosecution for a violation of  
15          section 291E-61 or 291E-61.5, the amount of alcohol found in the  
16          defendant's blood or breath within three hours after the time of  
17          the alleged violation as shown by chemical analysis or other  
18          approved analytical techniques of the defendant's blood or  
19          breath shall be competent evidence concerning whether the  
20          defendant was under the influence of an intoxicant at the time

1 of the alleged violation and shall give rise to the following  
2 presumptions:

3 (1) If there were .05 or less grams of alcohol per  
4 one hundred milliliters or cubic centimeters of  
5 defendant's blood or .05 or less grams of alcohol per  
6 two hundred ten liters of defendant's breath, it shall  
7 be presumed that the defendant was not under the  
8 influence of alcohol at the time of the alleged  
9 violation; and

10 (2) If there were in excess of .05 grams of alcohol per  
11 one hundred milliliters or cubic centimeters of  
12 defendant's blood or .05 grams of alcohol per  
13 two hundred ten liters of defendant's breath, but less  
14 than .08 grams of alcohol per one hundred milliliters  
15 or cubic centimeters of defendant's blood or .08 grams  
16 of alcohol per two hundred ten liters of defendant's  
17 breath, that fact may be considered with other  
18 competent evidence in determining whether the  
19 defendant was under the influence of alcohol at the  
20 time of the alleged violation, but shall not of itself  
21 give rise to any presumption.



1        (c) In any criminal prosecution for a violation of  
2 section 291E-61 or in any proceeding under part III:  
3        (1) .15 or more grams of alcohol per one hundred  
4        milliliters or cubic centimeters of the person's  
5        blood; or  
6        (2) .15 or more grams of alcohol per two hundred ten  
7        liters of the person's breath,  
8 within three hours after the time of the alleged violation as  
9 shown by chemical analysis or other approved analytical  
10 techniques of the person's blood or breath shall be competent  
11 evidence that the person was a highly intoxicated driver at the  
12 time of the alleged violation.

13        [~~e~~] (d) Nothing in this section shall be construed as  
14 limiting the introduction, in any criminal proceeding for a  
15 violation under section 291E-61 or 291E-61.5 or in any  
16 proceeding under part III, of relevant evidence of a person's  
17 alcohol concentration or drug content obtained more than three  
18 hours after an alleged violation; provided that the evidence is  
19 offered in compliance with the Hawaii rules of evidence."

20        SECTION 3. Section 291E-38, Hawaii Revised Statutes, is  
21 amended by amending subsection (d) to read as follows:



1           "(d) The director shall conduct the hearing and have  
2 authority to:

- 3           (1) Administer oaths and affirmations;
- 4           (2) Examine witnesses and take testimony;
- 5           (3) Receive and determine the relevance of evidence;
- 6           (4) Issue subpoenas;
- 7           (5) Regulate the course and conduct of the hearing; and
- 8           ~~[-(6) Impose up to the maximum license revocation period as~~
- 9           ~~specified under section 291E-41(b)(4); and~~
- 10          ~~-(7)]~~ (6) Make a final ruling."

11           SECTION 4. Section 291E-41, Hawaii Revised Statutes, is  
12 amended by amending subsections (a) through (d) to read as  
13 follows:

14           "(a) Unless an administrative revocation is reversed or  
15 the temporary permit is extended by the director, administrative  
16 revocation shall become effective on the day specified in the  
17 notice of administrative revocation. Except as provided in  
18 section 291E-44.5, no license [~~and privilege~~] to operate a  
19 vehicle shall be restored under any circumstances during the  
20 administrative revocation period. Upon completion of the



1 administrative revocation period, the respondent may reapply and  
2 be reissued a license pursuant to section 291E-45.

3 (b) Except as provided in [~~paragraph~~]  
4 paragraphs (4)(A)(ii) and (5) and in section 291E-44.5, the  
5 respondent shall keep an ignition interlock device installed and  
6 operating in [~~any vehicle~~] all vehicles operated by the  
7 respondent [~~operates~~] during the revocation period. Except as  
8 provided in section 291E-5, installation and maintenance of the  
9 ignition interlock device shall be at the respondent's expense.  
10 The periods of administrative revocation, with respect to a  
11 license [~~and privilege~~] to operate a vehicle, that shall be  
12 imposed under this part are as follows:

13 (1) A one year revocation of license [~~and privilege~~] to  
14 operate a vehicle, if the respondent's record shows no  
15 prior alcohol enforcement contact or drug enforcement  
16 contact during the [~~five~~] ten years preceding the date  
17 the notice of administrative revocation was issued;

18 (2) [~~An eighteen month~~] A two-year revocation of license  
19 [~~and privilege~~] to operate a vehicle, if the  
20 respondent's record shows one prior alcohol  
21 enforcement contact or drug enforcement contact during



1 the [~~five~~] ten years preceding the date the notice of  
2 administrative revocation was issued;

3 (3) A [~~two-year~~] four-year revocation of license [~~and~~  
4 ~~privilege~~] to operate a vehicle, if the respondent's  
5 record shows two or more prior alcohol enforcement  
6 contacts or drug enforcement contacts during the  
7 [~~five~~] ten years preceding the date the notice of  
8 administrative revocation was issued;

9 (~~4) [A minimum of five years up to a maximum of ten years~~  
10 ~~revocation of license and privilege to operate a~~  
11 ~~vehicle, if the respondent's record shows three or~~  
12 ~~more prior alcohol enforcement contacts or drug~~  
13 ~~enforcement contacts during the ten years preceding~~  
14 ~~the date the notice of administrative revocation was~~  
15 ~~issued;] For a respondent who is a highly intoxicated~~  
16 driver:

17 (A) If the respondent's record shows no prior alcohol  
18 enforcement contact or drug enforcement contact  
19 during the ten years preceding the date the  
20 notice of administrative revocation was issued:



- 1            (i) An eighteen-month revocation of license to
- 2            operate a vehicle, with mandatory
- 3            installation of an ignition interlock device
- 4            in all vehicles operated by the respondent
- 5            during the revocation period; or
- 6            (ii) A two-year revocation of license to operate
- 7            a vehicle, without mandatory installation of
- 8            an ignition interlock device in all vehicles
- 9            operated by the respondent during the
- 10           revocation period;
- 11           (B) If the respondent's record shows one prior
- 12           alcohol enforcement contact or drug enforcement
- 13           contact during the ten years preceding the date
- 14           the notice of administrative revocation was
- 15           issued, a three-year revocation of license to
- 16           operate a vehicle, with mandatory installation of
- 17           an ignition interlock device in all vehicles
- 18           operated by the respondent during the revocation
- 19           period; and
- 20           (C) If the respondent's record shows two or more
- 21           prior alcohol enforcement contacts or drug



1           enforcement contacts during the ten years  
2           preceding the date the notice of administrative  
3           revocation was issued, a six-year revocation of  
4           license to operate a vehicle, with mandatory  
5           installation of an ignition interlock device in  
6           all vehicles operated by the respondent during  
7           the revocation period;

8           (5) For respondents under the age of eighteen years who  
9           were arrested for a violation of section 291E-61  
10           or 291E-61.5, revocation of license and privilege to  
11           operate a vehicle for the appropriate revocation  
12           period provided in paragraphs (1) to [~~4~~] (3) or in  
13           subsection (c); provided that the respondent shall be  
14           prohibited from driving during the period preceding  
15           the respondent's eighteenth birthday and shall  
16           thereafter be subject to the ignition interlock  
17           requirement of this subsection for the balance of the  
18           revocation period; or

19           (6) For respondents, other than those excepted pursuant to  
20           section 291E-44.5(c), who do not install an ignition  
21           interlock device in [~~any vehicle~~] all vehicles



1           operated by the respondent [~~operates~~] during the  
2           revocation period, revocation of license [~~and~~  
3           ~~privilege~~] to operate a vehicle for the period of  
4           revocation provided in paragraphs (1) to [~~+5~~] (4) (A)  
5           or in subsection (c); provided that:

6           (A) The respondent shall be absolutely prohibited  
7           from driving during the revocation period and  
8           subject to the penalties provided by  
9           section 291E-62 if the respondent drives during  
10          the revocation period; and

11          (B) The director shall not issue an ignition  
12          interlock permit to the respondent pursuant to  
13          section 291E-44.5;

14          provided that when more than one administrative revocation,  
15          suspension, or conviction arises out of the same arrest, it  
16          shall be counted as only one prior alcohol enforcement contact  
17          or drug enforcement contact, whichever revocation, suspension,  
18          or conviction occurs later.

19          (c) If a respondent has refused to be tested after being  
20          informed:



1 (1) That the person may refuse to submit to testing in  
2 compliance with section 291E-11; and

3 (2) Of the sanctions of this part and then asked if the  
4 person still refuses to submit to a breath, blood, or  
5 urine test, in compliance with the requirements of  
6 section 291E-15,

7 the revocation imposed under subsection (b) (1), (2), or (3) [~~7~~  
8 ~~or (4)~~] shall be for a period of two years, [~~three years,~~  
9 four years, or [~~ten~~] eight years, respectively.

10 (d) Whenever a license [~~and privilege~~] to operate a  
11 vehicle is administratively revoked under this part, the  
12 respondent shall be referred to the driver's education program  
13 for an assessment, by a certified substance abuse counselor, of  
14 the respondent's substance abuse or dependence and the need for  
15 treatment. The counselor shall submit a report with  
16 recommendations to the director. If the counselor's assessment  
17 establishes that the extent of the respondent's substance abuse  
18 or dependence warrants treatment, the director shall so order.  
19 All costs for assessment and treatment shall be paid by the  
20 respondent."



1 SECTION 5. Section 291E-61, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 1. By amending subsection (b) to read:

4 "(b) A person committing the offense of operating a  
5 vehicle under the influence of an intoxicant shall be sentenced  
6 without possibility of probation or suspension of sentence as  
7 follows:

8 (1) [~~For~~] Except as provided in paragraph (4), for the  
9 first offense, or any offense not preceded within a  
10 ten-year period by a conviction for an offense under  
11 this section or section 291E-4(a):

12 (A) A fourteen-hour minimum substance abuse  
13 rehabilitation program, including education and  
14 counseling, or other comparable program deemed  
15 appropriate by the court;

16 (B) One-year revocation of license [~~and privilege~~] to  
17 operate a vehicle [~~during the revocation period~~  
18 ~~and installation~~];

19 (C) Installation during the revocation period of an  
20 ignition interlock device on [~~any vehicle~~] all  
21 vehicles operated by the person;



- 1           ~~[(C)]~~   (D)   Any one or more of the following:
- 2                   (i)   Seventy-two hours of community service work;
- 3                   (ii)   No less than forty-eight hours and no more
- 4                            than five days of imprisonment; or
- 5                   (iii)   A fine of no less than \$250 but no more than
- 6                            \$1,000;
- 7           ~~[(D)]~~   (E)   A surcharge of \$25 to be deposited into the
- 8                            neurotrauma special fund; and
- 9           ~~[(E)]~~   (F)   A surcharge, if the court so orders, of up
- 10                           to \$25 to be deposited into the trauma system
- 11                           special fund;
- 12           (2)   For an offense that occurs within ten years of a prior
- 13                           conviction for an offense under this section [~~or~~
- 14                           ~~section 291E-4(a)~~]:
- 15                   (A)   A substance abuse program of at least
- 16                           thirty-six hours, including education and
- 17                           counseling or other comparable programs deemed
- 18                           appropriate by the court;
- 19           ~~[(A)]~~   (B)   Revocation of license to operate a vehicle
- 20                           for no less than [~~twenty-four months nor~~
- 21                           two years but no more than three years [~~of~~

1 ~~license and privilege to operate a vehicle during~~  
2 ~~the revocation period and installation];~~

3 (C) Installation during the revocation period of an  
4 ignition interlock device on ~~[any vehicle]~~ all  
5 vehicles operated by the person;

6 ~~[(B)]~~ (D) Either one of the following:

7 (i) No less than two hundred forty hours of  
8 community service work; or

9 (ii) No less than five days but no more than  
10 thirty days of imprisonment, of which at  
11 least forty-eight hours shall be served  
12 consecutively;

13 ~~[(C)]~~ (E) A fine of no less than \$1,000 but no more  
14 than \$3,000;

15 ~~[(D)]~~ (F) A surcharge of \$25 to be deposited into the  
16 neurotrauma special fund; and

17 ~~[(E)]~~ (G) A surcharge of up to \$50, if the court so  
18 orders, to be deposited into the trauma system  
19 special fund;

20 (3) In addition to a sentence imposed under paragraphs (1)  
21 and (2), any person eighteen years of age or older who



1 is convicted under this section and who operated a  
2 vehicle with a passenger, in or on the vehicle, who  
3 was younger than fifteen years of age, shall be  
4 sentenced to an additional mandatory fine of \$500 and  
5 an additional mandatory term of imprisonment of  
6 forty-eight hours; provided that the total term of  
7 imprisonment for a person convicted under this  
8 paragraph shall not exceed the maximum term of  
9 imprisonment provided in paragraph (1) or (2), as  
10 applicable. Notwithstanding paragraphs (1) and (2),  
11 the revocation period for a person sentenced under  
12 this paragraph shall be no less than two years; ~~and~~  
13 (4) In addition to a sentence imposed under paragraph (1),  
14 for a first offense under this section, or an offense  
15 not preceded within a ten-year period by a conviction  
16 for an offense, any person who is convicted under this  
17 section and was a highly intoxicated driver at the  
18 time of the subject incident shall be sentenced to an  
19 additional mandatory term of imprisonment for  
20 forty-eight consecutive hours and an additional  
21 mandatory revocation period of six months; provided



1           that the total term of imprisonment for a person  
2           convicted under this paragraph shall not exceed the  
3           maximum term of imprisonment provided in  
4           paragraph (1). Notwithstanding paragraph (1), the  
5           revocation period for a person sentenced under this  
6           paragraph shall be no less than eighteen months;  
7           (5) In addition to a sentence under paragraph (2), for an  
8           offense that occurs within ten years of a prior  
9           conviction for an offense under this section, any  
10           person who is convicted under this section and was a  
11           highly intoxicated driver at the time of the subject  
12           incident shall be sentenced to an additional mandatory  
13           term of imprisonment of ten consecutive days and an  
14           additional mandatory revocation period of one year;  
15           provided that the total term of imprisonment for a  
16           person convicted under this paragraph shall not exceed  
17           the maximum term of imprisonment provided in  
18           paragraph (2), as applicable. Notwithstanding  
19           paragraph (2), the revocation period for a person  
20           sentenced under this paragraph shall be no less than  
21           three years; and



1        [~~(4)~~] (6) If the person demonstrates to the court that the  
2                    person:  
3                    (A) Does not own or have the use of a vehicle in  
4                    which the person can install an ignition  
5                    interlock device during the revocation period; or  
6                    (B) Is otherwise unable to drive during the  
7                    revocation period,  
8                    the person shall be absolutely prohibited from driving  
9                    during the period of applicable revocation provided in  
10                    paragraphs (1) to (3); provided that the court shall  
11                    not issue an ignition interlock permit pursuant to  
12                    subsection (i) and the person shall be subject to the  
13                    penalties provided by section 291E-62 if the person  
14                    drives during the applicable revocation period."  
15        2. By amending subsections (g) and (h) to read:  
16                    "(g) Notwithstanding any other law to the contrary, any:  
17                    (1) Conviction under this section, section 291E-4(a), or  
18                    section 291E-61.5;  
19                    (2) Conviction in any other state or federal jurisdiction  
20                    for an offense that is comparable to operating or  
21                    being in physical control of a vehicle while having

1           either an unlawful alcohol concentration or an  
2           unlawful drug content in the blood or urine or while  
3           under the influence of an intoxicant or habitually  
4           operating a vehicle under the influence of an  
5           intoxicant; or

6           (3) Adjudication of a minor for a law violation that, if  
7           committed by an adult, would constitute a violation of  
8           this section or an offense under section 291E-4(a), or  
9           section 291E-61.5,

10 shall be considered a prior conviction for the purposes of  
11 imposing sentence under this section. Any judgment on a verdict  
12 or a finding of guilty, a plea of guilty or nolo contendere, or  
13 an adjudication, in the case of a minor, that at the time of the  
14 offense has not been expunged by pardon, reversed, or set aside  
15 shall be deemed a prior conviction under this section. [No

16 ~~license and privilege revocation shall be imposed pursuant to~~  
17 ~~this section if the person's license and privilege to operate a~~  
18 ~~vehicle has previously been administratively revoked pursuant to~~  
19 ~~part III for the same act; provided that, if the administrative~~  
20 ~~revocation is subsequently reversed, the person's license and~~  
21 ~~privilege to operate a vehicle shall be revoked as provided in~~



1 ~~this section. There shall be no requirement for the~~  
2 ~~installation of an ignition interlock device pursuant to this~~  
3 ~~section if the requirement has previously been imposed pursuant~~  
4 ~~to part III for the same act; provided that, if the requirement~~  
5 ~~is subsequently reversed, a requirement for the installation of~~  
6 ~~an ignition interlock device shall be imposed as provided in~~  
7 ~~this section.]~~

8 (h) Whenever a court sentences a person pursuant to  
9 subsection (b), it also shall require that the offender be  
10 referred to the driver's education program for an assessment, by  
11 a certified substance abuse counselor[7] deemed appropriate by  
12 the court, of the offender's substance abuse or dependence and  
13 the need for appropriate treatment. The counselor shall submit  
14 a report with recommendations to the court. The court shall  
15 require the offender to obtain appropriate treatment if the  
16 counselor's assessment establishes the offender's substance  
17 abuse or dependence. All costs for assessment and treatment  
18 shall be borne by the offender."

19 SECTION 6. Section 291E-61.5, Hawaii Revised Statutes, is  
20 amended to read as follows:



1           **"§291E-61.5 Habitually operating a vehicle under the**  
2 **influence of an intoxicant.** (a) A person commits the offense  
3 of habitually operating a vehicle under the influence of an  
4 intoxicant if:

5           (1) The person is a habitual operator of a vehicle while  
6           under the influence of an intoxicant; and

7           (2) The person operates or assumes actual physical control  
8           of a vehicle:

9           (A) While under the influence of alcohol in an amount  
10           sufficient to impair the person's normal mental  
11           faculties or ability to care for the person and  
12           guard against casualty;

13           (B) While under the influence of any drug that  
14           impairs the person's ability to operate the  
15           vehicle in a careful and prudent manner;

16           (C) With .08 or more grams of alcohol per two hundred  
17           ten liters of breath; or

18           (D) With .08 or more grams of alcohol per one hundred  
19           milliliters or cubic centimeters of blood.

20           (b) Habitually operating a vehicle while under the  
21 influence of an intoxicant is a class C felony.



1 (c) For a conviction under this section, the sentence  
2 shall be either:

3 (1) An indeterminate term of imprisonment of five years;  
4 or

5 (2) A term of probation of five years, with conditions to  
6 include:

7 (A) Mandatory revocation of license [~~and privilege~~]  
8 to operate a vehicle for a period no less than  
9 three years but no more than five years[~~+~~], with  
10 mandatory installation of an ignition interlock  
11 device in all vehicles operated by the respondent  
12 during the revocation period;

13 (B) No less than ten days imprisonment, of which at  
14 least forty-eight hours shall be served  
15 consecutively;

16 (C) A fine of no less than \$2,000 but no more than  
17 \$5,000;

18 (D) Referral to a certified substance abuse counselor  
19 as provided in subsection [~~(d)~~+] (e);

20 (E) A surcharge of \$25 to be deposited into the  
21 neurotrauma special fund; and



1 (F) [~~May be charged a~~] A surcharge of up to \$50 to be  
2 deposited into the trauma system special fund if  
3 the court so orders.

4 In addition to the foregoing, any vehicle owned and operated by  
5 the person committing the offense shall be subject to forfeiture  
6 pursuant to chapter 712A[~~; provided that the department of~~  
7 ~~transportation shall provide storage for vehicles forfeited~~  
8 ~~under this subsection~~].

9 (d) For any person who is convicted under this section and  
10 was a highly intoxicated driver at the time of the subject  
11 incident, the offense shall be a class B felony and the person  
12 shall be sentenced to the following:

13 (1) An indeterminate term of imprisonment of ten years; or

14 (2) A term of probation of five years, with conditions to  
15 include the following:

16 (A) Permanent revocation of license to operate a  
17 vehicle;

18 (B) No less than eighteen months imprisonment;

19 (C) A fine of no less than \$5,000 but no more than  
20 \$25,000; and



1            (D) Referral to a certified substance abuse counselor  
2            as provided in subsection (e).

3 In addition to the foregoing, any vehicle owned and operated by  
4 the person who committed the offense shall be subject to  
5 forfeiture pursuant to chapter 712A.

6            [~~d~~] (e) Whenever a court sentences a person under this  
7 section, it shall also require that the offender be referred to  
8 the driver's education program for an assessment, by a certified  
9 substance abuse counselor, of the offender's substance abuse or  
10 dependence and the need for appropriate treatment. The  
11 counselor shall submit a report with recommendations to the  
12 court. The court shall require the offender to obtain  
13 appropriate treatment if the counselor's assessment establishes  
14 the offender's substance abuse or dependence. All costs for  
15 assessment and treatment shall be borne by the offender.

16            [~~e~~] (f) Notwithstanding any other law to the contrary,  
17 whenever a court revokes a person's driver's license pursuant to  
18 this section, the examiner of drivers shall not grant to the  
19 person a new driver's license until expiration of the period of  
20 revocation determined by the court. After the period of  
21 revocation is complete, the person may apply for and the



1 examiner of drivers may grant to the person a new driver's  
2 license.

3 ~~[(f)]~~ (g) Any person sentenced under this section may be  
4 ordered to reimburse the county for the cost of any blood or  
5 urine tests conducted pursuant to section 291E-11. The court  
6 shall order the person to make restitution in a lump sum, or in  
7 a series of prorated installments, to the police department or  
8 other agency incurring the expense of the blood or urine test.

9 ~~[(g)]~~ (h) As used in this section:

10 "Convicted one or more times for offenses of habitually  
11 operating a vehicle under the influence" means that, at the time  
12 of the behavior for which the person is charged under this  
13 section, the person had one or more times within ten years of  
14 the instant offense:

15 (1) A judgment on a verdict or a finding of guilty, or a  
16 plea of guilty or nolo contendere, for a violation of  
17 this section or section 291-4.4 as that section was in  
18 effect on December 31, 2001;

19 (2) A judgment on a verdict or a finding of guilty, or a  
20 plea of guilty or nolo contendere, for an offense that



1 is comparable to this section or section 291-4.4 as  
2 that section was in effect on December 31, 2001; or  
3 (3) An adjudication of a minor for a law or probation  
4 violation that, if committed by an adult, would  
5 constitute a violation of this section or  
6 section 291-4.4 as that section was in effect on  
7 December 31, 2001,  
8 that, at the time of the instant offense, had not been expunged  
9 by pardon, reversed, or set aside. All convictions that have  
10 been expunged by pardon, reversed, or set aside before the  
11 instant offense shall not be deemed prior convictions for the  
12 purposes of proving the person's status as a habitual operator  
13 of a vehicle while under the influence of an intoxicant.  
14 "Convicted two or more times for offenses of operating a  
15 vehicle under the influence" means that, at the time of the  
16 behavior for which the person is charged under this section, the  
17 person had two or more times within ten years of the instant  
18 offense:  
19 (1) A judgment on a verdict or a finding of guilty, or a  
20 plea of guilty or nolo contendere, for a violation of  
21 section [~~291-4, 291-4.4, or 291-7 as these sections~~



1           ~~were in effect on December 31, 2001, or~~  
2           ~~section] 291E-61 or 707-702.5;~~

3           (2) A judgment on a verdict or a finding of guilty, or a  
4           plea of guilty or nolo contendere, for an offense that  
5           is comparable to section [~~291-4, 291-4.4, or 291-7 as~~  
6           ~~those sections were in effect on December 31, 2001, or~~  
7           ~~section] 291E-61 or 707-702.5; or~~

8           (3) An adjudication of a minor for a law or probation  
9           violation that, if committed by an adult, would  
10          constitute a violation of section [~~291-4, 291-4.4,~~  
11          ~~or 291-7 as those sections were in effect on~~  
12          ~~December 31, 2001, or section] 291E-61 or 707-702.5,  
13          that, at the time of the instant offense, had not been expunged  
14          by pardon, reversed, or set aside. All convictions that have  
15          been expunged by pardon, reversed, or set aside before the  
16          instant offense shall not be deemed prior convictions for the  
17          purposes of proving that the person is a habitual operator of a  
18          vehicle while under the influence of an intoxicant.~~

19          "Examiner of drivers" has the same meaning as provided in  
20          section 286-2.



1 "Habitual operator of a vehicle while under the influence  
2 of an intoxicant" means that the person was convicted:

3 (1) Two or more times for offenses of operating a vehicle  
4 under the influence; or

5 (2) One or more times for offenses of habitually operating  
6 a vehicle under the influence."

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

10 SECTION 8. If any provision of this Act, or the  
11 application thereof to any person or circumstance, is held  
12 invalid, the invalidity does not affect other provisions or  
13 applications of the Act that can be given effect without the  
14 invalid provision or application, and to this end the provisions  
15 of this Act are severable.

16 SECTION 9. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 10. This Act shall take effect on July 1, 3021.



**Report Title:**

Operating a Vehicle Under the Influence of an Intoxicant; Highly Intoxicated Driver; Penalties

**Description:**

Establishes sentencing guidelines for highly intoxicated drivers. Requires that ignition interlock devices be installed on all vehicles operated by a person upon license revocation. Increases the license revocation period and extends the applicable lookback periods. Amends the penalties for operating a vehicle under the influence of an intoxicant. Effective 7/1/3021. (HD2)

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

