
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 section
15 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 one
4 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 two
13 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 section
2 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 to read as follows:

13 "**§291E-41 Effective date, conditions, and period of**
14 **administrative revocation; criteria.** (a) Unless an
15 administrative revocation is reversed or the temporary permit is
16 extended by the director, administrative revocation shall become
17 effective on the day specified in the notice of administrative
18 revocation. Except as provided in section 291E-44.5, no license
19 ~~[and privilege]~~ to operate a vehicle shall be restored under any
20 circumstances during the administrative revocation period. Upon
21 completion of the administrative revocation period, the



1 respondent may reapply and be reissued a license pursuant to
2 section 291E-45.

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

- 12 (1) A one year revocation of license [~~and privilege~~] to
13 operate a vehicle, if the respondent's record shows no
14 prior alcohol enforcement contact or drug enforcement
15 contact during the [~~five~~] ten years preceding the date
16 the notice of administrative revocation was issued;
- 17 (2) [~~An eighteen month~~] A two-year revocation of license
18 [~~and privilege~~] to operate a vehicle, if the
19 respondent's record shows one prior alcohol
20 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) An eighteen-month revocation of license to
18 operate a vehicle, with mandatory installation of
19 an ignition interlock device in all vehicles
20 operated by the respondent during the revocation
21 period, if the respondent's record shows no prior



1 alcohol enforcement contact or drug enforcement
2 contact during the ten year preceding the date
3 the notice of administrative revocation was
4 issued;

5 (B) A three-year revocation of license to operate a
6 vehicle, with mandatory installation of an
7 ignition interlock device in all vehicles
8 operated by the respondent during the revocation
9 period, if the respondent's record shows one
10 prior alcohol enforcement contact or drug
11 enforcement contact during the ten years
12 preceding the date the notice of administrative
13 revocation was issued; and

14 (C) A six-year revocation of license to operate a
15 vehicle, with mandatory installation of an
16 ignition interlock device in all vehicles
17 operated by the respondent during the revocation
18 period, if the respondent's records show two or
19 more prior alcohol enforcement or drug
20 enforcement contacts during the ten years



1 preceding the date the notice of administrative
2 revocation was issued;

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

14 (6) For respondents, other than those excepted pursuant to
15 section 291E-44.5(c), who do not install an ignition
16 interlock device in [~~any vehicle~~] all vehicles
17 operated by the respondent [~~operates~~] during the
18 revocation period, revocation of license [~~and~~
19 ~~privilege~~] to operate a vehicle for the period of
20 revocation provided in paragraphs (1) to [~~(5)~~] (4) (A)
21 or in subsection (c); provided that:



1 (A) The respondent shall be absolutely prohibited
2 from driving during the revocation period and
3 subject to the penalties provided by section
4 291E-62 if the respondent drives during the
5 revocation period; and

6 (B) The director shall not issue an ignition
7 interlock permit to the respondent pursuant to
8 section 291E-44.5;

9 provided that when more than one administrative revocation,
10 suspension, or conviction arises out of the same arrest, it
11 shall be counted as only one prior alcohol enforcement contact
12 or drug enforcement contact, whichever revocation, suspension,
13 or conviction occurs later.

14 (c) If a respondent has refused to be tested after being
15 informed:

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

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



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

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

15 (e) Alcohol and drug enforcement contacts that occurred
16 prior to January 1, 2002, shall be counted in determining the
17 administrative revocation period.

18 (f) The requirement to provide proof of financial
19 responsibility pursuant to section 287-20 shall not be based
20 upon a revocation under subsection (b) (1)."



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 subsection (b)(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 operated
21 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 thirty-six
- 16 hours, including education and counseling or
- 17 other comparable programs deemed appropriate by
- 18 the court;
- 19 ~~[(A)]~~ (B) Revocation of license to operate a vehicle
- 20 for no less than [~~twenty-four months~~] two years
- 21 nor more than three years [~~of license and~~



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

3 (C) Installation during the revocation period of an
4 ignition interlock device on any vehicle operated
5 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 forty-
6 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 forty-
20 eight consecutive hours and an additional mandatory
21 revocation period of six months; provided that the



1 total term of imprisonment for a person convicted
2 under this paragraph shall not exceed the maximum term
3 of imprisonment provided in paragraph (1).

4 Notwithstanding paragraph (1), the revocation period
5 for a person sentenced under this paragraph shall be
6 no less than eighteen months;

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



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

3 (E) A surcharge of \$50 to be deposited into the
4 neurotrauma special fund under section 321H-4;
5 and

6 (F) A surcharge of up to \$100, to be deposited into
7 the trauma system special fund under section
8 321-22.5, if the court so orders.

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

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



1 ~~(e)~~ (f) Notwithstanding any other law to the contrary,
2 whenever a court revokes a person's driver's license pursuant to
3 this section, the examiner of drivers shall not grant to the
4 person a new driver's license until expiration of the period of
5 revocation determined by the court. After the period of
6 revocation is complete, the person may apply for and the
7 examiner of drivers may grant to the person a new driver's
8 license.

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

15 ~~(g)~~ (h) As used in this section:

16 "Convicted one or more times for offenses of habitually
17 operating a vehicle under the influence" means that, at the time
18 of the behavior for which the person is charged under this
19 section, the person had one or more times within ten years of
20 the instant offense:



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

5 (2) A judgment on a verdict or a finding of guilty, or a
6 plea of guilty or nolo contendere, for an offense that
7 is comparable to this section or section 291-4.4 as
8 that section was in effect on December 31, 2001; or

9 (3) An adjudication of a minor for a law or probation
10 violation that, if committed by an adult, would
11 constitute a violation of this section or section
12 291-4.4 as that section was in effect on December 31,
13 2001,

14 that, at the time of the instant offense, had not been expunged
15 by pardon, reversed, or set aside. All convictions that have
16 been expunged by pardon, reversed, or set aside before the
17 instant offense shall not be deemed prior convictions for the
18 purposes of proving the person's status as a habitual operator
19 of a vehicle while under the influence of an intoxicant.

20 "Convicted two or more times for offenses of operating a
21 vehicle under the influence" means that, at the time of the



1 behavior for which the person is charged under this section, the
2 person had two or more times within ten years of the instant
3 offense:

4 (1) A judgment on a verdict or a finding of guilty, or a
5 plea of guilty or nolo contendere, for a violation of
6 section [~~291-4, 291-4.4, or 291-7 as those sections~~
7 ~~were in effect on December 31, 2001, or section]~~
8 291E-61 or 707-702.5;

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

14 (3) An adjudication of a minor for a law or probation
15 violation that, if committed by an adult, would
16 constitute a violation of section [~~291-4, 291-4.4, or~~
17 ~~291-7 as those sections were in effect on December 31,~~
18 ~~2001, or section]~~ 291E-61 or 707-702.5,

19 that, at the time of the instant offense, had not been expunged
20 by pardon, reversed, or set aside. All convictions that have
21 been expunged by pardon, reversed, or set aside before the



1 instant offense shall not be deemed prior convictions for the
2 purposes of proving that the person is a habitual operator of a
3 vehicle while under the influence of an intoxicant.

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

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

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

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

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

15 SECTION 8. If any provision of this Act, or the
16 application thereof to any person or circumstance, is held
17 invalid, the invalidity does not affect other provisions or
18 applications of the Act that can be given effect without the
19 invalid provision or application, and to this end the provisions
20 of this Act are severable.



1 SECTION 9. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 10. This Act shall take effect on May 6, 2137.



Report Title:

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

Description:

Defines "highly intoxicated driver". Provides the evidentiary standard for establishing that a person was a highly intoxicated driver. Requires that ignition interlock devices be installed and maintained on all vehicles operated by anyone convicted of operating a vehicle under the influence of an intoxicant, during the applicable period of license revocation. Increases the license revocation period ordered by the Administrative Driver's License Revocation Office and extends the applicable lookback periods from five to ten years. Establishes higher penalties for a highly intoxicated driver operating a vehicle. Establishes higher penalties for offenses of operating a vehicle under the influence of an intoxicant. Effective 5/6/2137.
(SD2)

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

